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IN THE MATTER OF FACT-FINDING  
BETWEEN

BUTLER COUNTY COMMISSIONERS )	
WATER & SEWER DEPARTMENT )	CASE NO. 11-MED-11-1676
)	
AND )	
)	<u>FINDINGS</u>
)	AND
AFSCME, OHIO COUNCIL 8 )	<u>RECOMMENDATIONS</u>
LOCAL 3396-2 )	

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE UNION

Peter M. McLinden, Regional Director AFSCME  
Mark Murphy  
Jay Long

FOR THE COUNTY

James L. Davis, Jr., Human Resources Manager  
Robert B. Leventry  
Gary Sheets

## **SUBMISSION**

This matter concerns fact-finding proceedings between AFSCME, Ohio Council 8, Local 3396-2 (hereinafter referred to as the Union or AFSCME) and the Butler County Commissioners, Water and Sewer Department (hereinafter referred to as the Employer or BCWS). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding hearing was held on October 12, 2012 in Hamilton, Ohio.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issues remaining for this fact-finder's consideration are more fully set forth in this report.

The bargaining unit is comprised of all non-supervisory employees of the Butler County Water and Sewer Department. There are eighty-one full-time employees in the bargaining unit at the present time.

This fact-finder in rendering the following findings of fact and recommendations on the issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117-14(G)(6)(7). Therefore, the following recommendations on the issues at impasse are hereby submitted.

## **1. WAGES AND PAY STEP PROGRESSION**

The Union proposes annual wage increases of 3% retroactive to January 12, 2012; 3% effective January 12, 2013; and 3% effective January 12, 2014. The Union also proposes that pay step progression be allowed under the new Agreement. Under the prior agreement, pay step progression was suspended. The Union is also opposed to the Employer's request that the Business Specialist classification pay grade be reduced from B-07 to B-05. In addition, the Union opposes eliminating the Superior-Only Pay Step, the highest salary step on the Pay Step Progression.

The Employer proposes that there be a 0% increase in 2012; 0% in 2013; with a wage reopener in 2014. The proposal would also include "me too" language in the event of BCWS non-bargaining unit pay increases during the term of the Contract. The Employer also proposes a continuation of the freeze on pay step progression. BCWS further proposes eliminating the S Step from the pay scale. The Clerical position of Business Specialist would also be adjusted from the current B-07 to pay grade B-05. Under the Employer's proposal, current employees classified as Business Specialist in the B-07 pay grade would remain at that pay level.

The Union maintains that its proposal of 3% annual increases and pay step reactivation is reasonable given the County's and the Water and Sewer Department's financial standing. It also is in keeping with the increases provided to other Butler

County bargaining units. The Union's proposal reflects the kind of pay increases provided to other Ohio water and sewer district bargaining units.

The Union submits that Butler County's Water and Sewer Funds as well as its General Fund are economically stable and therefore the Employer has the ability to finance the wage and step increases proposed by AFSCME for bargaining unit employees. First, the Union points out that under the prior agreement which included wage freezes as well as a freeze on the pay step progression, the Water and Sewer Department's labor costs decreased by 23.5% for its Water Fund and by 10% for its Sewer Fund. With respect to the financial health of the County's Water and Sewer Department, the Union cites the analysis made by its own fiscal policy analyst, Mr. Mark Murphy, who stated that in FY 2009, the BCWS implemented a large rate adjustment for its customers. The average residential water rates decreased 5% while sewer rates decreased 13%. Similarly, the average commercial water rates decreased 23% and sewer rates by 27%. As a result of the rate reductions, revenue declined causing significant operating deficits to occur at the BCWS. The deficit in the Water Fund was \$759,000 in FY 2011 whereas the Sewer Fund had a deficit of 3.2 million dollars in FY 2011. However, the Union's financial expert points out that apart from the increasing operating deficits that followed the large rate cut in FY 2009, both the Sewer and Water Funds are in relatively good health. They have ample liquidity and cash reserves. Long term debt is decreasing and operating costs have continued to decline.

The Union submits that the Butler County's General Fund is also economically healthy. The County has a large financial cushion amounting to 20% of the fund balance. It also has a positive revenue surplus before transfers. The Union's financial expert indicated that the County has a large cash reserve. It was acknowledged however that at least some of this cash reserve is restricted and not available for general operating expenses at BCWS. The Union notes that sales tax revenue is out performing forecasts for 2012. The Union submits that the Butler County's General Fund resources could be used to cover water/sewer's operating costs including annual wage increases.

The Union further maintains that the County has granted annual wage increases as well as step increases to other County bargaining unit employees. It cites the 2% wage increase provided to the Sheriff Department employees in 2012 with dispatchers receiving a 3% increase in 2012 and having their step increases provided under the new agreement. Likewise, there were certain longevity pay and other pay supplemental increases provided to the Sheriff Department units as well as the County's Children Services bargaining unit employees. The Union argues that the County's 0% increase for three years for the bargaining employees here would be unfair and amounts to unequal treatment.

The Employer contends that its proposal is reasonable given the financial challenges facing both the Water and Sewer Department as well as Butler County. The Employer submitted proposals that would lower costs by 0.88 million dollars. In contrast, the Union submitted proposals that would add 1.25 million dollars in additional

costs to the BCWS. The Employer is simply asking to hold the line on pay step progression and the across-the-board pay increases for the first two years of the Contract and then come back to the bargaining table in 2014 to see where the organization stands at that time.

The Employer points out that it has relied on the annual Oakwood Survey for rate comparisons. As measured by that survey, the BCWS water rates have historically been well above average due to the high cost of purchased water and the demands of an aggressive capital improvement program. In response to the poor standing among utilities in the Oakwood Survey, the County lowered water and sewer rates in 2009. As a result, it improved its standing in the Oakwood Survey with the combined rates approaching the top one-third of the participants. The Employer points out that additional labor costs such as that which would occur under the Union's proposals would add pressure to raise rates. However, the Employer submits that it would be unwise to do so at the current time especially in a down economy. Expensive water and sewer rates are a financial burden on families and detrimental to the economic development of Butler County. The preferred strategy is to maintain the current rates, improve efficiencies, and reduce expenditures.

The Employer notes that because its Water and Sewer Department does not have the capacity to treat water for its customers, it must buy its water from nearby providers. As a result, BCWS has contracts with the cities of Hamilton and Cincinnati to provide it

with water. The existing contract for purchasing water remains a long-standing problem with no-cost effective solution.

The Employer submits that the County's General Fund is also facing financial difficulties. The 2012 projected cash estimate shows a 1.29 million dollar decline in the year-end cash balance. The estimated year-end cash balance of 9.25 million dollars as a percent of the 2013 budget is 12% below that recommended for a reserve of 15-20%. The Employer disputes the Union's claim that the County has a large cash reserve available for funding the Water and Sewer Department. It claims that most of the cash reserves is restricted and not available to fund any increases in labor costs.

With respect to its proposal to eliminate the Superior or S Step from the Pay Step Progression, the Employer maintains that employees at this step are paid well above the market rate. Therefore, the evidence clearly supports the elimination of the S Step. Likewise, an adjustment should be made for the Business Specialist classification to bring it in line with other clerical positions and its equivalent position of Administrative Assistant.

ANALYSIS - This fact-finder after carefully reviewing the evidence presented would recommend that there be 0% increases in the first two years of the new Contract, with a 2.5% wage increase in the third year. Step progression pay increases would continue to be frozen for the duration of the Contract. There should be no change in the current S Step. It is recommended that Business Specialist pay grade be changed to B-05 for new employees with current employees remaining at B-07 pay level.

This fact-finder would recommend 0% wage increases in the first two years of the Contract based largely on the evidence showing that the Water and Sewer Departments are experiencing several financial challenges. First due to the rate decreases ordered by the County Commissioners in FY 2008, there has been a steady decline in revenue. For FY 2011, the two funds showed a combined 4.0 million dollar deficit. After using considerable cash reserves to cover large shortfalls in revenue, the deficit for the Water Fund has now decreased to about \$759,000 in FY 2011. The Sewer Fund deficit actually rose to 3.2 million dollars in FY 2011. As even the Union's own financial expert noted, after three years of employee concessions, early retirements, layoffs and other budget cuts, "the operating budget is still not balanced." This fact-finder would tend to agree with the Union that the rate decrease implemented in FY 2009 should be reexamined. The Employer representatives indicated that no such rate increases are planned at the current time. Therefore given the operating deficits in the Water and Sewer Departments, this fact-finder would not recommend any wage increase for the first two years of the Agreement.

This fact-finder would also recommend that there continue to be a freeze on pay step progression for the duration of the new Contract. It was shown that if the pay step progression were allowed to continue again under the new Contract, it would constitute a significant increase in labor costs for BCWS. It was shown that bargaining unit employees who are eligible for pay steps would add an additional \$332,000 to those labor costs just during the term of the new Agreement. Given the operating deficits in the

Water and Sewer Departments, this fact-finder does not find that it would be appropriate at this time to reinstate the Pay Step Progression Provision.

Another reason for recommending a pay freeze for the first two years of the Agreement is the evidence indicating that Butler County Water and Sewer bargaining unit employees' wages compare quite favorably with those in similarly sized or nearby water and sewer utilities. The Employer cited a wage survey that it took for which eight utilities responded. That survey indicated that the top pay for bargaining unit employees here was about 8% higher than market comparables. It should be noted that most of the bargaining unit employees are at or near the top pay grade.

However, this fact-finder would recommend that there be a 2.5% wage increase in the third year of the Agreement for bargaining unit employees. While there are certain financial concerns facing the County's Water/Sewer Funds, there was also evidence presented which indicates that the funds are in relatively good health. For example as a measure of financial liquidity, the BCWS' "days of cash on hand" is well above water/sewer standards. It was shown that the water and sewer accounts have 686 days of cash on hand which is well above Standard and Poor's "strong" indicator of 120 days. Moreover, labor expenses for the Water Fund have declined 23.5% to 3.4 million dollars in FY 2011, while labor costs for the Sewer Fund have dropped 10% to 5.7 million dollars. Water and sewer debt is also relatively low by Standard and Poor's standards. As the Union's financial expert indicated, apart from the increasing operating deficits that followed the large rate cuts in FY 2009, both funds are in "relatively good health. They

have ample liquidity and cash reserves, long term debt is decreasing and operating costs have continued to decline..." There is every indication therefore that Butler County's Water and Sewer Departments have the ability to cover the additional cost of a 2.5% increase in the third year of the new Contract.

It should be noted that the 2.5% pay increase for the third year of the Agreement would be similar to that provided to this bargaining unit in the third year of its prior contract. In January 2011, the employees received a 1.5% increase and in June 2011, another 1.5% increase. This averaged out to a 2.3% wage increase over the prior contract term. It is apparent that if BCWS could afford the prior 2.3% wage increase, it should likewise be able to finance the recommended 2.5% increase in the third year of the new Contract.

Moreover, it was established that Butler County granted similar wage increases to other bargaining unit employees. For example, Butler County Sheriff employees were granted a 2% increase in the final year of their agreement. The Butler County Children Services employees were provided with step increases in two of the three years of its agreement along with increases in longevity pay and tuition reimbursement. It should be noted that bargaining unit employees in the Division of Water and Sewer have received no step increases, longevity pay or any other kind of supplemental pay increases from 2009 to the current time. As a result of similar pay increases provided to other County employees, this fact-finder has determined that it would only be reasonable to likewise

provide bargaining unit employees at the Water and Sewer Department with a 2.5% increase in the third year of the new Contract.

This fact-finder also does not find that a sufficient basis was established by the Employer for its proposal to eliminate the S Step from the pay scale. The evidence indicated that eliminating the superior pay step, the highest step on the Pay Step Progression, would cause approximately one-third of AFSCME bargaining unit employees to take a 2.9% pay cut. Considering the evidence showing that both the Water and Sewer Funds are in relatively good health, this fact-finder finds that it would be totally unreasonable to cut the pay of those twenty-six employees currently at the S Step. There simply was no justification established by the Employer to eliminate the S Step from the pay scale.

However, this fact-finder would recommend a change in the Business Specialist pay classification. Currently, a Business Specialist is a B-07. It was shown that the job was originally created to prepare for the departure of a large number of employees in the clerical section. However, the duties which were contemplated at the time such as serving as a team leader never occurred. It is important to note that in comparison to other clerical positions, a Clerk III for example is a B-04. It appears therefore that a Business Specialist at B-07 would be out of line with the normal progression for the clerical position. As a result, this fact-finder would recommend that it be adjusted for new employees to pay grade B-05 to bring it in line with other County clerical positions.

However, it would be reasonable to provide that current employees at pay grade B-07 be allowed to stay in that pay classification.

### **RECOMMENDATION**

It is the recommendation of this fact-finder with respect to Wages and Pay Step Progression that there be zero percent (0%) wage increases in the first two years of the Contract with a two and one-half percent (2.5%) increase in the third year. The Pay Step Progression shall remain frozen for the duration of the new Contract. The S Step shall be retained. The Business Specialist pay grade shall be changed to B-05 for new employees, with current employees staying in B-07.

**WAGES - Effective January 14, 2012 - zero percent (0%) wage increase.**

**Effective January 12, 2013 - zero percent (0%) wage increase.**

**Effective January 11, 2014 - Wage rates for each pay grade shall be increased by two and one-half percent (2.5%).**

**Pay step progression shall be suspended for the duration of the new Contract.**

**The S Step on the pay scale shall be retained without any change.**

**The Business Specialist pay grade shall be changed to B-05 for new employees, with current Business Specialist employees remaining at B-07.**

## **2. DURATION**

Each party has proposed a three year Contract. The only difference being that under the Union's proposal, the new Contract would continue in effect until January 13, 2015. The Employer's proposal is that the Agreement remain in effect until January 9, 2015.

ANALYSIS - This fact-finder would recommend that the Contract be a three year Agreement which would have an expiration date of January 13, 2015. This would be in line with the prior Contract which continued in effect until January 13, 2012.

### **RECOMMENDATION**

It is the recommendation of this fact-finder that there be a three year Contract continuing in effect until January 13, 2015.

**DURATION - Three (3) year Agreement which is to continue in effect until January 13, 2015.**

**CONCLUSION**

In conclusion, this fact-finder hereby submits the above referred to recommendations on the outstanding issues presented to him for his consideration.

**NOVEMBER 15, 2012**

**James M. Mancini /s/**  
**JAMES M. MANCINI, FACT-FINDER**

November 15, 2012

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BUTLER COUNTY COMMISSIONERS	)	
WATER & SEWER DEPARTMENTS	)	CASE NO. 11-MED-11-1676
	)	
AND	)	
	)	
AFSCME, OHIO COUNCIL 8, LOCAL 3396-2	)	

**FEE STATEMENT:**

Hearing (1 day).....	\$	950.00
Study & Preparation of Report (3½ days).....	\$	3,325.00
Travel Time (½ day-Includes overnight).....	\$	475.00
Expenses:		
Transportation (502 miles x \$.55/mile).....	\$	276.10
Lodging.....	\$	123.08
Meals (2).....	\$	22.16
		<u>TOTAL.....\$ 5,171.34</u>

**PAYABLE BY THE COUNTY (½)..... \$ 2,585.67**

**PAYABLE BY AFSCME (½)..... \$ 2,585.67**

James M. Mancini /s/  
 James M. Mancini, Fact-Finder  
 Federal ID # 84-1661482