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STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In The Matter of Fact Finding Between

City of Norton, Ohio	}	
(Employer)	}	Case No.(s): 12-MED-02-0133
	}	
	}	
AND	}	
	}	
AFSCME, Ohio Council 8	}	Fact Finding Report
Local 265 (Clerical & Technical)	}	Michael King, Fact Finder
(Employee Organization)	}	

A hearing on this matter initially convened on May 10, 2012, in Norton, Ohio. Some testimony was taken, and the matter was continued until July 24, 2012.

APPEARANCES:

For The Employer:

Paul L. Jackson, Esq.
Roetzel & Andress, LPA
222 South Main Street
Akron, Ohio 44308

For The Union:

Michael A. DeLuke, Staff Representative
AFSCME Ohio Council 8
1145 Massillon Road
Akron, Ohio 44306-4146

I. Introduction and Submission

The undersigned, Michael King, was appointed Fact Finder by the State Employment Relations Board (SERB) on April 11, 2012.

The bargaining unit consists five (5) clerical employees. The parties are signatories to a collective bargaining agreement for the period January 1, 2010, through December 31, 2012. In Article 34 of that Collective Bargaining Agreement the parties established the right to a wage re-opener for the period July 1, 2011, through December 31, 2012.

As permitted under Article 34, the parties reopened the contract on the issue of wages. The parties exchanged written proposals on that issue. The Union proposed a wage increase of three (3) percent, while the Employer proposed a wage cut of three (3) percent. The parties discussed the proposals on several occasions but were unable to reach any agreement. As a result, the wage issue remains the only unresolved issue.

II. Fact-Finder's Report

In reviewing the issues at impasse, and arriving at a recommendation, I considered the parties written submissions and exhibits, oral presentations and testimony and the following factors as required by law:

- 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 service or in private employment.

The fact-finding hearing in this matter occurred over parts of two (2) days, with the record being closed immediately following the second day of hearing.

III. Unresolved Issue

Issue # 1 Wages

Union Position:

The bargaining unit consists of five (5) clerical workers, down from nine (9) in 2010. While the number of employees has declined sharply, the overall volume of work has remained somewhat constant. As a result the amount of work each bargaining unit member is tasked to accomplish is much greater than in prior years.

While their workload has increased, the purchasing power of their salaries has been eroded. Specifically, the 2010 contract included a requirement for a \$1,200 annual contribution to health insurance cost. That additional charge wasn't completely offset by the wage increases (2% in January 2010 and 1% in January 2011) employees received.

Members of this bargaining unit earn an average of \$15.96 per hour. (The wages for members of this unit range from a low of \$14.23 an hour, to a high of \$18 an hour.) Thus the estimated wage increase sought would cost the City of Norton less than \$6,000.

According to the Union, the requested wage increase is one that the City of Norton could easily afford. To support this position, the Union provided the testimony of Christina Kaoh, a labor economist in the AFSCME Department of Research and Collective Bargaining. "(Norton) seems to be doing ok," she says. "They're not doing fabulously, but I haven't come across a lot of cities in Ohio that are."

Ms. Kaoh performed an analysis of Norton's financial reports for fiscal years 2008, 2009 and 2010. She also examined the 2011 information, but noted the 2011 numbers weren't audited. Therefore, they weren't exactly comparable to prior years. Likewise, she reviewed year-to-date numbers as available for 2012.

Ms. Kaoh says the numbers show a City whose finances have rebounded somewhat. Beginning with fiscal year 2010, Norton was back on the upswing. The city had general fund operating surpluses as follows:

FY 2008	\$1,413,153
FY 2009	141,811
FY 2010	347,335

Net general fund balances were as follows:

FY 2008	(\$214,737)
FY2009	(\$901,608)
FY 2010	\$290,118

The Union argues that the net general fund balance is more than adequate to support the modest wage increase sought. Moreover, the city's balance sheet is strong enough to support the additional wages sought. For example, the S & P rating service considers municipal per capita debt below \$1,000 as "very low," according to Ms. Kaoh. The City of Norton's approximate per capita debt is as follows:

FY 2008	\$300
FY 2009	\$270
FY 2010	\$740

The Union also argued that other bargaining units were treated more favorably than this one, and that those other units received larger wage increases. Janice Back, a member of the bargaining unit, and a secretary in the safety and civil service divisions, testified that she reviewed records for other bargaining units. She said that some other bargaining units have received wage increases of up to nine (9) percent. Other than that brief testimony, however, she offered no evidence regarding bargaining positions and outcomes for other bargaining units in the city.

Finally, the Union stated that wages paid to this bargaining unit are below comparable units in other cities. It offered comparisons to other cities including Barberton City, Bedford City, Broadview Heights City, Canton City, Green City, Kent City, Lakewood City, Macedonia City, and Orville City. (A copy of those proposed comparables is appended hereto.) Norton ranked near the bottom in wages paid to clerical staff.

Employer Position:

The Employer notes that its revenues remain down from prior years. It has an inability to pay higher wages at this time. Recognizing that, three of six bargaining units agreed to a pay freeze. (The employer mentioned the other bargaining units, but didn't provide evidence of their respective bargaining positions and outcomes.)

From 2008 to 2010, Norton experienced a steep drop in revenues. That situation has begun to improve, but revenues aren't back to levels achieved in prior years.

The Employer offered this statement of its revenue fluctuation, and yearend general fund balances:

Revenues:

FY 2008	\$7,289,400.71
FY 2009	\$6,603,250.90
FY 2010	\$5,516,130.26
FY 2011	\$6,745,231.13
2012 (YTD)	\$3,106,768.69 (Through July 13, 2012)

Ending Balances

FY 2008	\$757,679.77
FY 2009	\$718,695.34
FY 2010	\$545,467.75
FY 2011	\$2,022,950.43
2012 (YTD)	\$2,931,703.59 (Through July 13, 2012)

The Employer notes that the sometimes large yearend fund balances are necessary and appropriate to fund the city. A large portion of the city's revenue comes through income taxes received in April, according to John Moss, former finance director. The city must be able to function until those revenues are realized. As a result, the city attempts to maintain a cash reserve equal to three (3) months obligations.

The yearend fund balance for FY 2011 appears large, but that's only in comparison to more depressed periods, the Employer stated. In addition, that year included additional revenues derived from an adjustment in the credit given residents for taxes paid to other cities. It also included some one-time items, including federal grants and some inheritance tax funds. A portion of the inheritance tax funds had to be returned to the State. Also, because of changes at the State level, the city won't be receiving comparable inheritance tax payments in the future.

With respect to 2012, the Employer estimates that it has received approximately slightly more than half of the revenue for the year, but has paid only about a third of the expenses.

Finally, the Employer states that its finances are recovering in part because of prudent financial management. A three (3) percent wage cut is consistent with that prudent financial management.

Finding And Recommendation

I accept that the City of Norton survived the financial reversals of the last three years in part because of a style of financial management.

I find that the city's finances are continuing to improve but that those finances aren't yet back to prior levels. The effects of changes in inheritance taxes and uncertainty about availability of other state and federal funds makes revenue estimation problematic.

I find that the downsizing in city government, and other reforms improved city finances but sometimes had the impact of imposing hardships on members of this bargaining unit.

I find at this time that the City of Norton, Ohio does not have an inability to pay for even the modest wage increase sought by this bargaining unit at this time.

I find further that the City of Norton, Ohio does have the ability to continue to fund salaries in the bargaining unit at the current levels.

I therefore, ***recommend*** no change in the current wage rate. Wages should not be increased pursuant to the current wage reopener. Likewise, wages should not be decreased pursuant to the current wage reopener.

Michael King
Appointed Fact Finder

Date: August 16, 2012
Westlake, Ohio

Certificate of Service

I Certify that I caused a copy of the foregoing Fact Finder's Report to be served on Paul L. Jackson, Esq., the Employer's representative, and Michael A. DeLuke, the Union's representative, by entering same in the United States Mail, Priority Mail, this ____ day of August 2012. In addition I have forwarded a copy of this report to Mr. Jackson and Mr. DeLuke via electronic mail and fax.

Michael L. King

August 16, 2012