STATE EMPLOYMENT RELATIONS BOARD
State of Ohio

In the matter of Fact Finding between:	)	SERB No. 2014-MED-07-0947
	)	
TEAMSTER LOCAL NO. 348,	)	Hearing: January 14, 2015
	)	
Employee Organization,	)	Before Mitchell B. Goldberg,
	)	SERB Appointed Fact Finder
and	)	
	)	
CITY OF NEW FRANKLIN, OHIO ,	)	Date of Report: February 13, 2015
	)	
Public Employer.		

FACT FINDING REPORT

Appearances: For the Union: John R. Doll, Attorney, Doll Jansen & Ford.
For the Employer: Thomas Evan Green, Attorney, Kastner, Westman, & Wilkins, Co., LL**C.**

I. Introduction and Background.

The Ohio State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder of this public employment labor dispute on November 26, 2014. The parties agreed to the issuance date of this Report of February 13, 2015. This hearing in this matter occurred on January 14, 2015 by agreement. The parties submitted timely pre-hearing statements setting forth their respective positions on the unresolved issues in accordance with SERB Rules and Guidelines. They submitted oral evidence and supplied documentary exhibits at the hearing.

The parties engaged in multiple bargaining sessions beginning on August 25, 2014, prior to the expiration date of their current agreement, which expired on September 30, 2014. They engaged in bargaining sessions or meetings until they selected a Fact Finder. They resolved eight issues, leaving only the following two issues for the Fact Finder's recommendations. Those are (1) Wages (Article 25, Section 1), and (2) Retirement (Article 28, a proposed new section). The parties agreed at the hearing to permit the Fact Finder to engage in mediation efforts to resolve these issues. While the parties did make efforts toward a resolution of the issues by adjusting their stated positions, they were unable to reach a final agreement or settlement.

Accordingly, the following recommendations on the two unresolved issues are made in this Report, but also included in this Report and incorporated in it are all unchanged articles from the parties' expired CBA, and all tentative agreements reached between the parties during their negotiations. The parties agreed that the Report would be issued on February 13, 2015.

The following recommendations are made in accordance with the existing statutory factors and standards set forth in SERB Rules and Guidelines. They are: (A) past collectively bargained agreements between the parties; (B) consideration of issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved; (C) the interests and welfare of 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; (D) the lawful authority of the public employer; (E) the stipulations of the parties; and (F) such other factors, not confined to those listed above, which are normally, or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

II. Economic and Financial Evidence.

The financial impact upon the City as the result of agreeing to either of the parties' positions on the outstanding issues is not material insofar as the City's ability to pay or otherwise supply its services to its citizens. This is a small unit of 4 or 5 current employees. The cost to the City for payment of either party's proposals is in the range of $17,000 to $20,000 over a new three-year CBA term. The City prepared well before the recession and economic downturn by managing its expenses to keep them in line with the predicted decline of its revenue sources. All of the bargaining units took concessions during the lean years by accepting wage freezes, lump sum payments instead of percentage increases to base wages, and increases that were much smaller than in past years. The result of the City's conservative management and the employee concessions is reflected in the Finance Report to City Council in December 2014 that shows a cash balance in the General Fund as of November 30 of over $2.7 million.

This is further reflected in the figures related to the City's Street Construction Fund, which is the revenue fund that supports this unit's resources. In 2011, net revenue (revenue less expenses) was over $300,000. In 2012, the net revenue decreased to $223,292. In 2013, net revenue was down to $188,554. This shows that notwithstanding the fund's declining revenue due to the loss of state funding and tax eliminations or decreases, expenses have been well managed. It should also be pointed out that the City has managed its budget without going into debt.

III. Unresolved Issues.

(1) Wages (Article 26, Section 1)

The current hourly rate of the Assistant Superintendent is $22.90; the Work Leader is $22.44; and the Maintenance Worker is $22.13. The Union proposes across-the-board increases of 3% in year one, 2.75% in year two, and 2.5% in year three. During the last CBA term, this unit received lump sum payments of $450 in 2011 and 2012, with no increase upon the base pay. A percentage increase was only paid in 2013 of 1%. The City proposes a $900 lump sum contribution in year one, a $900 lump sum contribution in year two and a 1.5% payment on the base in year three. It is also willing to contribute 1% toward a pension pick-up.

The Union believes that internal comparisons are more important to consider than external comparisons because New Franklin is unique with its population spread out in a large geographic area, with little commercial development and a low tax base. The other organized units, the police unit and the fire unit, were treated much more favorably in their negotiations. For the same years, the Police received a 1.5% base increase in 2011, 2% in 2012, and a $1,000 lump sum payment in 2013 and 2014. The Fire unit received 2% in 2011, 0% in 2012, and $750 lump sum in 2013 and 2014. In 2014, the Fire unit received a 1.25% wage increase.

These payments to the other units must be considered with additional compensation that was made in the form of pension pick-ups to the employees' state retirement funds. The police received a 4% pick-up of the employee's contribution limit during the three-year period. The Fire unit received a pick-up for the first time in 2014 of 2%. The City workers unit and the unrepresented City employees have never received pension pick-ups. The Union acknowledges that the professional safety forces receive higher compensation due to the particular nature of their work and because of their different educational and training requirements. However, the Union believes that paying additional lump sums to the City workers unit as the City proposes, while providing the safety units with percentage increases unfairly widens the gap between the compensation levels. Paying the City workers percentage increases instead of lump sum payments will keep the compensation levels from becoming too distorted.

Many public employers throughout the state have use lump sum payments to replace percentage wage increases during the economic recession as a way of managing their decreased revenues and funding. They have recognized that employees needed to meet their cost of living expenses that were increasing due to higher medical and insurance costs, increases in higher education costs, and basic food, utilities and fuel costs. Paying lump sums addressed these concerns but did not increase the City's expenses by the multiplier effect that applies when percentage wage increases are made to the base. These lump sum payments also do not apply to the calculations for employer retirement contributions.

It must now be recognized, however, that we are no longer in a recession and that we have been in a prolonged economic recovery that is predicted to continue over the life of this new CBA. The recession and economic pessimism management tools should be revisited and reaccessed when looking ahead. The only area that has lagged behind the economic indicators is wages. Wages are expected to increase as the unemployment figures keep declining. At some point in the near future, long term, competent, and loyal employees will be more in demand. Insofar as New Franklin and the surrounding communities are concerned, the labor markets will tighten for both private and public employment with increased residential and commercial development. This will particularly be the case if low interest rates continue for business and commercial borrowing needs. This activity will ultimately lead to increased tax revenues. In this case, a reasonable return to percentage pay increases that are somewhat related to the cost of living percentages will help employees maintain their current living standards. Nevertheless, the State's continuing plan to eliminate or reduce state income taxes and minimize its funding to local governments is still in effect. Accordingly, the City cannot expect additional help from the State to meet its expenses.

The City believes that external comparisons must also be examined. These show that the City has kept its wage rates competitive with neighboring communities. None of the street workers in these areas receive pension pick-ups. Moreover, the workers in this unit have medical insurance benefits that exceed those available to the workers in the other areas, with far less employee costs toward the premiums and benefits.

After considering all of the evidence before me, I believe the following percentage wage increases are reasonable, manageable, affordable, and take into account that a recommendation is being made to include this unit within the group of employees who will receive some contribution towards their retirement funding through an employer percentage pick-up of the employees' contributions.

RECOMMENDATION: I recommend the following across-the-board percentage pay increases for this unit under a the successor three-year CBA term: 1.0 % for year one (October 1, 2014- September 30, 2015); 1.5% for year two (October 1, 2015-September 30, 2016); and 2.0% for year three (October

1, 2016-September 30, 2017).

(2) Retirement (Article 28, Proposed New Section

Pension pick-ups as additional compensation offer financial benefits to both the public employer and to the employees. The employer's contribution payment made in lieu of paid percentage wage increased avoids the expense of roll-up costs and employer payroll tax payments that accompany wage payments. For employees, receiving a contribution toward their pension payment is a form of compensation that is not subject to income taxes. Moreover, the contribution toward the pension frees up money that would otherwise be paid to the pension fund and can be used for everyday living expenses. I recognize that as the City has repeatedly made it clear that paying a pension pick-up to its employees has always been accompanied by an agreed upon compensation reduction in other areas. For police, it was taking a wage freeze; for Fire it was taking a lower percentage pay increase. The following recommendation attempts to coordinate with the above percentage wage increase recommendations, that but for the pick-up would otherwise by higher.

RECOMMENDATION: I recommend a pension pick-up payments as follows: Year one – 1.0%; year two – 1%**,** and year three – 1.5%.

Date of Report: February 13, 2015

/s/______________________________
Mitchell B. Goldberg, Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon the following persons and agency by electronic mail this 13th day of February, 2015:

SERB Email: med@serb.state.oh.us

Tom Green: Tgreen@KWWlaborlaw.com

John Doll: jdoll@djflawfirm,com

/s/______________________________
Mitchell B. Goldberg

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