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**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING**

CITY OF INKSTER

And

MERC Case DO9 I-1081

AFSCME COUNCIL 25
_____ /

Report

A. Robert Stevenson, Fact Finder

September 28, 2010

FINDINGS, OPINION AND RECOMMENDATIONS

The Fact-Finding hearings on this matter were held July 26, 2010, in the City of Inkster, Michigan.

Present of AFSCME Council 25:

Cassandra Harmon-Higgins	Attorney for the Union
Jeanette Diflorio	Council 25
Jeff Arakelian	Bargaining Committee
Bettye Riley-Lee	Bargaining Committee
Daryl Davis	Bargaining Committee
Denise Williams	Bargaining Committee

Present for the City of Inkster:

Richard Fanning Jr.	Attorney for the City
William Lawrence Jr.	Human Resource Director
Peter Dobrzeniecki	Treasurer/ Controller
Debbie Hooper	Paralegal

My findings, opinion and recommendations follow.

The aim of fact finding is to guide the parties as to the terms and conditions which, in the view of a neutral, can be the basis for resolving the parties' dispute so as to enable them to reach a collective bargaining agreement. Criteria can include the financial ability of the governmental unit to fund the award, and comparables both internally and with other similarly situated public and private employers in the geographical area. The fundamental duty of the Fact Finder is to inquire fully into the facts involved and to issue non-binding recommendations regarding the matters in dispute.

INTRODUCTION

The City of Inkster (City), Michigan AFSME Council 25, AFL-CIO, and its affiliated Local 290 (Union) are signatories to a Collective Bargaining Agreement which covers the period of July 1, 2004 through June 30, 2009. The Union represents a unit of approximately fifty (50) employees in a variety of classifications including DPW, Clerical, Recreation, and Housing (U. Ex. 109). The parties however, have agreed that the Housing employees will not be included in this Fact Finding.

Collective bargaining negotiations for a successor Agreement commenced on July 9, 2009 (U. Ex. 108). Two negotiation sessions were held prior to the City's request for Mediation. The parties engaged in subsequent mediation with no success, which resulted in the initiation of Fact Finding.

Petitioner AFSCME Council 25, Local 290 ("Union") filed an Amended Petition for Fact Finding June 18, 2010, seeking to resolve the ongoing contract negotiations between the parties. The Union issues cited in the Petition included

- New/ Probationary Employee (Health Insurance and Retirement)
- Health Insurance
- Uniforms (issue was resolved at the Hearing)
- Wage Increases
- Wage System/ Pay Plan
- Duration of Contract (Effective Date)

The City filed an Answer to Application for Fact Finding dated April 28, 2010. The City does not object to the statement of the Union's issues insofar as they are the same as the proposal presented to the City by the Union in contract negotiations and mediation. The City's position is to maintain the status quo, except as modified by its positions and issues.

I was appointed Fact Finder on April 5, 2010. A Pre-Hearing Conference (by phone) was held on May 18, 2010. Hearing on the petition was held July 26, 2010 during which the Fact Finder heard evidence from both the Union and the City. Both parties had an opportunity to cross-examine witnesses for the other side and to explain their positions in written briefs.

The Parties did not agree on a list of Comparable Communities:

The Union Proposed:

Allen Park
Dearborn Heights
Garden City
Westland

The Union chose four contiguous cities ranking Allen Park as most comparable to Inkster.

The City Proposed:

Hamtramck
Harper Woods
Hazel Park
Mount Clemens

The City supports its choice on the basis of community population and taxable value (City Brief p.20). The City's position is that the Union's proposed comparables all have significantly more economic resources with an average of 373.25% higher taxable value over Inkster's taxable value (City Brief p.21).

All the City's active employees are to be considered internal comparables.

The City is governed by a seven member City Council. In addition to this bargaining unit there are five (5) other bargaining units represent by:

International Association of Fire Fighters (Contract through June 30, 2012)

Michigan Association of Public Employees (Dispatchers) Contract through June 30, 2011)

Command Officers Association of Michigan (Contract through June 30, 2012)

Police Officers Association of Michigan (no negotiations because of representation petition)

United Auto Workers (AFSCME supervision) (tentative Agreement)

Jeanette DiFlorio served as the key witness for the Union. Ms. Diflorio is employed with the AFSCME as Staff Representative. In her testimony she went through all the articles in dispute and gave detailed summations of the Union's position on each.

The Union in its Post Hearing Brief recognizes that the employer, just like other employers in the same or similar situations has to deal with today's financial realities (Union Brief p.6). Nevertheless, the Union has had its share of loss of benefits as the economy has slowly declined. It is the Union position that the City should not be able to shift the entire financial burden to bargaining unit employees offering proposals with 0% salary increases (for 4 years) in conjunction with increased employee contributions for health care (Union Brief p.6).

A key issue in this case is the City's ability to pay. The Union contends that the revenue and expenditure figures suggest that the City of Inkster does have the financial ability for a modest increased economic package (Union Brief p.8). The Union cites the 2010 City's audit revealing a \$2.7 million surplus (Union Ex.124). The Union further states even if the City experiences reduced property taxes and or (state shared) revenues in 2011 the loss will be offset by all of the concessions made by unions in recently negotiated contracts (Union Brief p.8).

Mr. Dobrzeniecki testified for the City explaining the City's position as to its ability to pay. He testified that the General Fund balance is not an appropriate indicator of the City's financial health and cannot be relied upon to pay employee compensation in the future (City Brief p.9). Despite the City's dwindling revenues, it cost have steadily increased (City Brief p.12). Mr. Dobrzeniecki presented a detailed financial report

showing the City's financial picture as of June 30, 2010 (City Brief p.13). It is the City's position that the Union lacked sufficient information to make a thorough appraisal of the City's finances (City Brief p.17). Mr. Dobrzeniecki then stated that the actual anticipated General Fund balance both reserved and unreserved, as of June 30, 2011, assuming a 0% wage increase in this unit, would be \$1,091,857 (C. Ex 48). Thus the City will burn through over \$1.6 million of the \$2.7 million fund balance it had on June 30, 2009 during the first two years of this contract even if the status quo is maintained (City Brief p.15). Also, expenditures exceed revenues from Major Street, Local Streets, Water and Sewer and Garage fees and are not an additional source for funding this unit (City Brief p.14). Mr. Dobrzeniecki testified that the City is on the verge of being placed on the State's fiscal watch list for increased monitoring as a result of its poor finances (City Brief p.18).

Article XII New/ Probationary Employees

New Hire Retirement

The parties are in agreement that employees hired after ratification of the agreement shall be placed in a defined contribution plan. Employees shall be permitted to put up to 5% of their salary into the defined contribution plan with a three for one match from the City. However, the Union is proposing that employees be fully invested in the City's contributions after just one year of employment. In contrast, the City proposed a delayed vesting schedule where an employee would be 30% vested after three years, 50% vested after five years, 80% vested after eight years and 100% invested after 10 years.

Ms. DiFlorio testified that the Union seeks a shorter vesting period because the advantage to a Defined Contribution Plan is portability. If the employee doesn't vest for 10 years there is no real benefit to the employee. It is also noted that the City's department heads has a two year vesting (Union Brief p.14, Union Ex. 144).

Mr. Lawrence testified for the City that the justification for the City's position is that the City wishes to maintain the staggered vesting period to ensure that employee cannot leave after only 1 year of employment with the ability to take the City's contribution with him (City Brief p.44). The vesting schedule is proportionate to the

service provided and has been accepted by the City's UAW union that supervises AFSCME (City Brief p.44). As to Department Heads two year vesting the City's position is that they are at-will employees and are subject to termination (City Brief p.45).

New Hire Retiree Health Care

The parties have agreed that new hires and probationary employees will not be entitled to any City-paid retiree healthcare insurance. Rather, the City will establish a retiree healthcare savings account and contribute \$2,000 per employee per year into the account. The City proposes that an employee's interest in this account shall vest after ten years. The Union proposes that the employee should become fully vested after only one year. Also the Union proposes that the retiree medical savings account be an interest bearing account in the employee's name and the City pay any costs associated with the account (Union Brief p.13).

Article XXVIII-Health Insurance

Healthcare Benefits

Mr. Lawrence stated that the City simply could not continue to afford Blue Cross/Blue Shield coverage (City Brief p.39). Mr. Lawrence testified that the City has seen a 46% increase in its cost from Blue/Cross Blue Shield in recent years. The City's position is that employees can elect fully-funded health care through a Health Alliance (HAP) HMO or may elect to pay the difference between the HAP plan and the Blue Cross Shield plan (City Brief p.38).

The Union agrees that health insurance coverage under the HAP plan should be offered to City employees at no cost (Union Brief p.18). The Union also seeks fully-funded single coverage under the Blue Cross/Blue Shield plan and is willing to make a 3% contribution on other BlueCross/Blue shield coverages. A review of internal comparables shows that the same HAP plan is provided at no cost to employees in COAM, Inkster Fire Fighter, and the UAW (Union Brief p.18). The Union seeks the

addition of out-patient mental health coverage for employees that are covered under HAP (a benefit that is provided under the BCBS plan) and language that provides employees with an alternate HMO option (Union Brief p.18).

According to the City the HAP HMO plan provides exceptionally generous coverage in relation to the costly Blue Cross/ Blue Shield PPO1 plan (City Brief p.39, City Ex.61). The City's position is that what is being offered is in line with its internal and external comparables (City Brief p.41).

Article XXXV- Wage System

Wage Increase and Retroactivity

Union Proposal

July 1, 2009: Bring employees that are below the MML scale up to the salary in the MML scale (no reduction in pay) PLUS 3% added to the MML salary retroactive to July 1, 2009.

July 1, 2010 3%

July 1, 2011 3%

City Proposal

July 1, 2009 0%

July 1, 2010 0%

July 1, 2011 0%

Effective upon ratification of both parties, the City proposes the implementation of wages set forth in the MML wage study (dated December 2007). Movement in the MML chart is not automatic; there will be no movement to the next step unless negotiated.

Although both parties suggest a wage increase, the amount and retroactivity remains in question. The Union proposes adoption of the rates referenced in the MML study (without reduction in pay to any employee) and a 3% increase retroactive to July 1, 2009; a 3% increase retroactive to July 1, 2010 and a 3% increase on July 1, 2011 (Union

Brief p.25). The City proposes implementation (upon ratification) of wages set forth in the MML wage study and 0% increases for the life of the contract.

The Union justifies its proposal in that the cost of food, electricity, and gas (for cars and homes) have increased, while wages remain the same. The MML study was completed in 2007 and the bargaining unit pay levels were 11% below the labor market in December 2007 (Union Brief p 25, 26, Union Ex. 129 p.2). Also, implementation of the MML without an additional percentage will result in less than half of the employees receiving increases that exceed \$1000 (Union Brief Ex. 123 and Union Brief p.26). Further, a significant number won't receive any increases with the implementation of the MML (Union Brief p.26).

It is the City's position that the wage study completed by the Michigan Municipal League (MML) should be implemented prospectively. Following that there should be no wage increase for any member of the unit throughout the duration of the collective bargaining agreement (City Brief p.27). The City justifies its position in that both parties agreed to the study and the MML wage study would produce an average wage increase of 5.06% amongst bargaining unit employees (City Brief p.27). The City further notes that the study included larger and richer communities and thus the study concluded that members of the bargaining unit were underpaid (City Brief p.28) However the study noted that members of this unit received comparably richer benefits than similarly situated employees in other communities(U. Ex 129 p.2). The City counters the Unions claim of reduced purchasing power by citing the fact that the Consumer Price Index has fallen since the end of the contract on since July 1, 2009 (City Brief p.37, C ex 51). The City states that its proposal is also in line with its internal comparables (City Brief p.32).

The cost of the Union's proposal according to the City is \$465,037 over the City's proposal of an average increase of 5% for the duration of the contract (City Brief p.36). It is therefore argued that the cost of the Union's proposal would sap 42.5% of the City's anticipated General Fund balance for the 2011/2012 Fiscal Year (City Brief p.36).

Article XXXV: Wage System/ Pay Plan

Step Increases

Union Proposal

Step increases to be automatic

City Proposal

Movement in the MML chart is not automatic; there will be no movement to the next step unless negotiated.

The Union's position is to maintain the current contract language which provides automatic step increases (in a 5 step system) based upon years of service (Union Brief p. 29). The City's position is no movement to the next step unless negotiated (eliminating the current language). The Union points out that new employees (who have already significantly reduced benefits) come in at the low end of the steps and don't move up unless the City agrees (Union Brief p.29). They also cite the MML study that suggest the creation of "a clear plan for moving employees through pay ranges (i.e. each year the employee gets a 'step' until he or she reaches the maximum) (Union Ex.129 p.10).

The City's position on step increases also cites the MML study in support of its position (City Brief p.28). The MML study noted that the unit contained too many different job descriptions and wage steps with 36 distinct titles and 10 different pay grades ((U. Ex 129, p.3). The MML study recommended that these job descriptions be clarified and the titles and pay steps be reduced. The study also noted the City was following increasingly out-dated practice of awarding "step" increases on only seniority which in their judgment was an increasingly outdated model. The City on page 29 of its brief cites the MML study as follows:

However, more and more employers are seeking more progressive methods for wage progression such as additional training/educational achievements, performance, or some combination of longevity and merit consideration (U. Ex. 129 p.10).

The City has proposed that step increases be subject to agreement between the Union and the City based on an employee's seniority and performance (City Brief p.32).

Duration of Contract

The parties are in agreement that the contract should cover the following contract years: July 1, 2009 To June 30, 2012. The Union seeks retroactive application of all wage benefits while the City seeks prospective application of all contract changes.

RECOMMENDATIONS

The economies of both the United States as a whole and southeastern Michigan in particular, have gone through a severe recession since the 3% pay increases were made to this unit on July 1, 2008. Increases were given to other internal units either for other reasons or before the City realized the full impact of its decreasing revenues, in particular the loss of \$500,000 in state-shared revenue (City Brief p.31). The City demonstrated that the current revenues don't support the current expenditures. While the external comparables are of interest they do not tie in to the realities of the future as no evidence of the financial health of these communities is presented. Given the change in circumstances the question is open as to their ability to fund these contracts today. The offers made by the City on the issues in this proceeding are in line with that provided by other internal employee groups. For example, the UAW contract accepted the implementation of the MML study in 2009 and received 0% increase in 2010 and the Fire Fighters accepted a contract calling for no wage increases through June 30, 2012 (City Brief p.30). The precedent of the internal comparables especially regarding this unit's UAW supervisors is compelling in arriving at the following recommendations:

New/Probationary Employee (Health Insurance and Retirement)

New Hire Retirement

The parties are in agreement as to a defined contribution program with a 3 to 1 match with a maximum contribution of 5%. The parties are not in agreement as to vesting. The Union proposes one year vesting and the employer proposes vesting 30%-3 years, 50%-5 years, 80%-8 years and 100%-10 years. I would recommend that employer retirement programs are for long service employees and that vesting should be proportionate to the service rendered and thus the City's vesting schedule is more appropriate.

New Hire Retiree Health Care

The parties are in agreement on a retiree healthcare saving account with a \$2,000 per employee contribution made by the City. The parties do not agree on the vesting schedule with the Union wanting one year vesting and the City 10 year vesting. I would recommend the 10 year vesting as agreed to by the employees in the UAW union. Generally retirement income and benefits are for long service employees and thus the 10 year vesting seem appropriate.

Health Insurance

Both parties agree to have HAP HMO health coverage for the employees at no cost and I would recommend its implementation. Because of the increased cost consideration for Blue Cross/Blue Shield coverage it should only be continue if the employee pays the difference in the cost of the HAP HMO coverage and the Blue Cross/ Blue Shield coverage. This health insurance is substantial and is in line with internal and external comparables.

Wage Increases

The MML study should be implemented without reduction of current wages. No additional compensation above that amount should be granted. The average increase of 5.06% should provide equitable relief to the vast majority of employees in the unit. Further increases in compensation during the life of this contract cannot be justified given the uncertainty of the City's financial future. No retroactivity due to the financial condition of the City.

Wage System/ Pay Plan

The step system should be eliminated based on longevity alone. I would agree with the MML study that this an out dated practice. A system of longevity, training and performance should be established to replace the step process. Job descriptions, titles and pay grades should also be reduced if possible.

Duration of Contract (Effective Date)

I would recommend the City and the Union seek a three (3) year contract with an effective date of July 1, 2009.

As to retroactivity, because of the financial health of the City no retroactivity should be granted.

SUMMARY

These recommendations are being made with the hope that they will be utilized by the parties to resolve the issues in dispute.

September 28, 2010

Respectfully submitted,



A. Robert Stevenson

Fact Finder