

14-036

IN THE MATTER OF FACT FINDING

BETWEEN

**THE SUMMIT COUNTY AUDITOR OFFICE
(FISCAL OFFICE)**

AND

AFSCME, OHIO COUNCIL 8 AND LOCAL 1229

SERB CASE # 2013-MED-05-0674

Robert G. Stein, Fact-finder

LEAD ADVOCATE(S) FOR THE UNION:

**Michael A. DeLuke, Staff Representative
AFSCME OHIO COUNCIL 8
1145 Massillon Road
Akron, OH 43085
mdeluke@afscme8.org**

LEAD ADVOCATE(S) FOR THE EMPLOYER:

**Yamini Adkins, Esq.
Deputy Director Labor Relations
Summit County Executive's Office
175 S. Main St.
Akron OH 44308-1308
yadkins@summitoh.net**

INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8, Local 1229 (hereinafter "Union") and the Summit County Auditor's Office (hereinafter "Employer," "Auditor" or "County"). The Employer is located in northern Ohio. The bargaining unit is comprised of approximately sixty-four (64) employees who hold various positions in the Employer's Fiscal Office of the Auditor's Department as identified in the Collective Bargaining Agreement. The effective dates of the current Agreement are September 1, 2010 through August 31, 2013. Two issues were brought to fact finding: Article 38, Wages and Article 21 Health Care. During the fact finding proceeding, the issue of health care was resolved, leaving wages as the single issue in dispute.

General/State/Local Economic Overview: It can finally be said with some certainty that the economy is improving on the local level. Certainly if you use the measure of the Stock Market, things are very much improved for those relatively few dependent upon it for their income, but for the majority of Americans a better metaphor is "the bleeding has subsided and the patient's (a.k.a. economy) condition is stable with signs of gradual improvement." The national economy is still plagued by the fatigue and frustration of politics that for the moment appear to be in a state of remission, but given what the nation has endured regarding gridlock, only time will determine whether the nation's concerns and future will take precedent over partisan politics. The sobering reality is that conditions post 2008 are unlikely to be the same as they were prior to the recessionary crash and its aftermath that have caused local governmental operations to be substantially impacted. One difference is one of economic structure and the considerable loss of manufacturing base in northern Ohio and along with it good paying jobs. It was this very vigorous manufacturing base that led Ohio out of past recessions, but has been eviscerated by the movement of

manufacturing outside of Ohio and the United States. But, that is not the only change that has affected Summit County. One only has to view the funding sources that Summit County relies upon to arrive at this conclusion. Significant cuts in Local Government Funds from the state and the elimination of the Estate Tax are just two of the changes that absolutely require Summit County to change the way it manages itself and the resources it now has to do its work. There is no question that the employees of Summit County have made substantial sacrifices by being subject to layoffs, unpaid furlough days, and having to assume substantially greater workloads based upon the shrinking workforce that has resulted from having to do more with far fewer staff. The data indicates the bargaining unit is approximately one-third smaller than it was just a few years earlier.

Prior to the past year it appeared Ohio was near the top in states creating jobs and was in the forefront of recovering state economies. However, in the last several months the picture has changed. Ohio's unemployment rate is now 7.4, which is above the national unemployment rate of 7%, and has trended upward from 7.2% in June of 2013. Until recently, Ohio, has been in the forefront in creating employment. Now it ranks 44th in the nation in the number of jobs being created. And, there is still a long way to go to make up for the 400,000 plus jobs lost in the last 12+ years in Ohio, many of which paid well and had good benefits. Yet, as previously stated, Ohio's economy is susceptible to the financial health of the United States and the world. One only has to view the limited opportunities available to recent high school and college graduates to find evidence that a "good" job with "good benefits" remains hard to find, unless you happen to be educated or trained in one of the few areas of high demand. There are positive signs; the housing market continues showing signs of recovery and the auto industry has had record sales this spring. Yet, uneasiness persists with some twelve (12) million people remaining unemployed, and many others underemployed. And as previously stated, the recovery is uneven, depending upon location. The Summit County Fiscal office clearly has performed well with its employees, bargaining unit and managerial alike, making significant economic sacrifices, a fact that are not lost on this fact finder. And, management, in spite of wave after wave of poor economic news during the last five years, has managed well and has maintained services to the public. The good news appears to be the economy in Summit county is

improving, albeit slowly, and the data provided at the hearing substantiates there are signs of recovery taking place, yet challenges abound. Prominent among them is the fact that Summit County has a current deficit of approximately 1.36 million dollars.

In prior negotiations the parties agreed to no wage increase in 2011, and a Wage reopener for the second (2012) and third (2013) year of the Agreement, mirroring many of the settlements in the County at the time, and reflected the sobering reality of a County that was struggling in the aftermath of severe budget cuts in local funding and a downturn in other sources of revenue. The parties agreed again to no wage increase in 2012 and in 2013. And as previously indicated, employees in the Financial Office were having to make economic sacrifices of their own. However, as a result of a fact finder award for another bargaining unit, employees in the Fiscal Office, in spite of already having agreed to again go without a wage increase in 2013, received an across-the-board wage increase of 1.5%, as did a few other County Employees.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are guided by the above statutory criteria and are intended to be in accordance with them.

For the sake of brevity the specific rationale proffered by the parties can be found in their position statements. In summary the parties' positions on the issue of wages are as follows:

Summary of Employer's Position on Wages. The Employer proposes a three year wage freeze for the new agreement that will run from September of 2013 through August of 2016. One of its major arguments centers upon its long standing history of patterned wage

settlements, exemplified by its decision in 2013 to provide the bargaining unit with a wage increase that as matter of patterned consistency matched a fact finder's award of 1.5% in another bargaining unit. The Employer strongly argues that County revenues during the past several years have been severely impacted by the "Great Recession" with a subsequent decline in revenue from some 111 million dollars in 2008 to approximately 95 million dollars in 2012, while expenses have remained the same or have increased. In response to this decline the County has implemented a County-wide hiring freeze, cut budgets of departments in 2009 and 2010, frozen non-union pay, offered voluntary severance packages in 2009, disapproved COLA increases for non-bargaining unit employees, and in 2009 instituted furlough (or cost saving days, "CSD") days for most union and non-union employees. The Employer points out that overall the Fiscal Office has been prudent in handling their budget dollars, even after budget cuts have been imposed and the entire office, including the bargaining unit, have accepted concessions. Yet, in spite of its relatively small size the Fiscal Office is a revenue generating entity. Two major generators, along with some smaller sources of revenue are the Delinquent Real Estate Tax Fund (or DTAC) and the Real Estate Assessment Fund (REA fund). The Employer asserts that 2009, 2010, and 2011 were three of the worst recessionary years that the County in recent memory. The County, which was formed in 1840, has had a long history of economic ups and downs, yet the recent recession was particularly widespread.

The Employer asserts that the bottom line is the fact that the County continues to operate with net expense/revenue deficit, having to rely upon the Budget Stabilization Fund, which has been reduced from 55 million dollars to its current level of 25 million dollars. The Employer also points to the fact that the state of Ohio will impose new taxes that will result in a further reduction of state revenue of 4% and in 2015 there will be 27 pay periods that will require the county to have additional funds on hand to meet payroll. In 2008 revenue in the County was 111 million. It dipped to 95 million in 2012 and is projected to increase to 100 million dollars in 2013. In spite of this improvement the Employer labels its financial position as "still at risk." (See Summit County Financial Position Report, September 30, 2013)

Summary of Union's Position on Wages. The Union proposes a 3% wage increase in each year of the Agreement. It emphasizes the bargaining unit has made considerable economic sacrifices over several years and has supported the County's effort to maintain services. And, while it acknowledges the difficulties experienced by the County since 2008, it also underscores that the individual family budgets of its members have gone through a period of substantial sacrifice while wages, with the exemption of 2013 have remained stagnant. The Union through testimony of Mr. John Hudson, Chapter Chair of the Summit County Fiscal Office Bargaining Unit, a veteran employee of over 25 years, made a compelling argument that bargaining unit members sincerely feel they have done all they can in terms of making economic sacrifices and it has become very difficult for many of them. And, during these difficult years he has seen the bargaining unit shrink from approximately 96 employees to approximate 63 employees who are working today. The Union, while acknowledging that patterned bargaining has been practiced points out that there have been some exceptions where individual employees have received increases outside of the pattern.

Fact-finder's overall Findings.

Patterned bargaining in negotiations is a time tested tradition. In the history of bargaining generally, both labor and management use patterned bargaining to bring about equity and maintain employee morale. Barring exceptional circumstances that require significant data to support a departure from a wage pattern, the fact finder concurs with the Employer that internal wage equity is a powerful component for securing labor peace where multiple bargaining units are engaged in bargaining with a single employer. Probably the most well-known patterned negotiations occur in the American auto industry, where the Union negotiates with one of the big three auto makers and then takes the pattern into negotiations with the remaining two companies. In Ohio patterned bargaining is often in play, particularly with employers that have several bargaining units. The County has had a long history of applying patterned bargaining that has been accepted by various bargaining units. In this case a pattern has not been established and the bargaining unit is in a position to be the first or one of the first to agree to a settlement that very well may represent the next pattern. The data presented by the Employer and its witnesses was particularly

compelling regarding management's multidimensional strategies utilized to "keep the ship afloat and to continue to provide services to the public." And, it is encouraging to see that on p. 9 of the Summit County Financial Position Report revenue is forecasted to rise steadily over the life of the Agreement. At the same time expenditures having had to be trimmed significantly in years 2010, 2011, and 2012, now appear to be at a more manageable level.

Since 2008 the Employer asked the bargaining unit to participate in "shared sacrifice" regarding wages, paid days, workload, etc., and it responded to this call. It only stands to reason that as things get better these same sacrificing employees, who suffered during the trials of the extended recession and were responsible and responsive to the conditions caused by the downturn, should now participate in the slow by steady recovery that appears to be underway. And, while it is apparent that financial improvement is both fragile and incremental, the data indicates a steady trend in the right direction regarding revenue. It is also noted that during the recession, inflation has remained low, so that the financial recovery for employees can be reasonably modest and incremental in nature, minimizing financial risks.

RECOMMENDATIONS:

Article 38 Wages:

- **1.0% increase in wages retroactive to September 1, 2013**
- **1.0% increase effective September 1, 2014**
- **1.0% increase effective September 1, 2015**

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of January 2014 in Portage County, Ohio.

Robert G. Stein, Fact finder