

**THE NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD**

IN THE MATTER OF IMPASSE

Between

THE TOWN OF TYRONE

and

**THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
LOCAL 529**

NYS PERB Case No.: M2016-195

Report and Recommendations

of

Matthew W. Burr,

PERB Fact Finder

Date of Hearing: It was decided that brief submission from both parties would suffice, in lieu of holding a fact-finding hearing.

Date of Briefs: March 7, 2018

Date of Report: March 26, 2018

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The Town of Tyrone and The International Brotherhood of Teamsters Local 529

NYS PERB Case No.: M2016-195

I. INTRODUCTION

In accordance with the Civil Service Law §209.3, the New York State Public Employment Relations Board appointed me (Matthew W. Burr) as Fact Finder in an impasse between the Town of Tyrone, NY and Teamsters Local 529. During the months of December 2017 and January 2018, the Fact Finder and representatives for both the Town of Tyrone (Mr. Jeffery Swaitek) and Teamsters Union (Mr. Bryan Arnault) held multiple conference calls, with each party providing overviews of their respective bargaining positions. During the final call and through electronic communication (emails), it was decided by all parties, that a hearing was not required and both parties would submit written briefs with supporting documentation. The parties submitted briefs, received by the Fact Finder on March 7, 2018. Upon receipt of these briefs, I declared the hearing closed.

II. BACKGROUND

The Town of Tyrone, NY (hereafter the Employer or the Town) is a town in the Finger Lakes Region of Upstate New York. The Town and Teamsters Local 529 (hereafter the Union) are the party to a collective bargaining agreement with the Town. This agreement expired on December 31, 2016. The parties met and began formal negotiations for a new agreement on October 18, 2016. The parties met a second time on November 14, 2016 and a final session on December 30, 2016. From October to the December 20th date in 2016, multiple bargaining sessions were cancelled due to conflicting dates with town meetings. The Union declared impasse in early 2017 and mediation sessions began on March 20, 2017 with a Public Employment Relations Board appointed Mediator. Despite the best efforts of the assigned Mediator, the parties were unable to reach an agreement on a new contract. On September 20, 2017 the Union declared an impasse and requested a Fact Finder be appointed through the New York State Public Employment Relations Board. In late September 2017, Fact Finder Matthew W. Burr was assigned to the case, with both parties receiving written notification in late September 2017. As noted in the introductory page, no fact-finding hearing was held. It was decided by all three parties; the Town, the Union and the assigned Fact Finder that briefs and supporting documentation would suffice for the fact-finding report and recommendations.

III. OUTSTANDING ISSUES

The parties have identified four major open issues.

The open issues are listed below:

1. Duration of the contract
2. Wages
3. Health Insurance and HRA Administration
4. Deputy Highway Superintendent Premium: unresolved on date

IV. SUMMARY OF THE PARTIES POSITIONS

Duration

The parties exchanged many ideas and proposals regarding the three major open issues and the length of the new contract. From the briefs submitted by both the Town and Union, the Union wants the agreement to end on December 31, 2019 (three year term) and the Town has proposed an agreement ending on December 31, 2020 (four year term). The duration of the predecessor agreement (expiring 12/31/2016) was three years in length.

Wages

The Union

The Union's last wage proposal, as shown below:

| Year | Increase |
|-------------|----------------------------------|
| 2017 | \$1,000 payment to each employee |
| 2018 | \$0.60 per hour increase |
| 2019 | \$0.60 per hour increase |

The Union cites the fact that the Highway Department (Town) employees are underpaid when comparing to peers from other towns. The Union references the Town of Prattsburgh, Town of Howard, Town of Orange, Town of Pulteney and the Town of Wheeler as comparable wage rates, when making the argument for wage increases over the three-year term of the contract. The Union also recognizes the Town's desire for a lower overall wage rate, by proposing a one-time lump sum payment for the year of 2017.

The Town

The Town's last wage proposal, as shown below:

| Year | Increase |
|------|--|
| 2017 | \$0 |
| 2018 | \$0.50 per hour increase (with the stipulation that the HDP plan implementation) |
| 2019 | \$0.50 per hour increase |
| 2020 | \$0.50 per hour increase |

The Town's last wage proposal submitted in the brief, as mentioned above. The Town also referenced the total overall cost (pension contributions and payroll taxes) of over \$40,000 over three years and an increase of over \$20,000 in annual payroll costs by 2020. As noted in the Town brief, the 2018 increase is directly related to the High Deductible Insurance Plan and whether the plan can still be implemented, if it is not possible the town will not propose a wage increase for 2018. The \$0.50 proposed wage increase is an approximate 2.5% wage increase, per the calculation presented by the town.

Health Insurance

As noted in the briefs, the parties agree that the Town would fully fund the employee's annual out-of-pocket maximums of \$3,600(single)/\$7,200(family). The unresolved issues are the premium contribution percentage and the administration of the HRA benefits.

The Union

The Union has proposed an eight percent (8%) employee contribution, as the employees are moving from the Supreme Plan to a High Deductible Plan. The Union cites a \$5,000 per employee per year savings for the Town, with the contributions by the employees. The Union also references a \$75,000 in savings during the life of the contract, by moving from a Supreme Plan to the High Deductible Plan.

The Union proposes that the Teamsters Fund to continue to administer the HRA plan. The Union references added costs to the Town for a third-party to administer the HRA.

The Town

The Town has proposed a twelve percent (12%) employee contribution, upon moving into the High Deductible Plan (HDP as written in the Town brief). The Town cites a \$32,400 exposure/risk in costs, in fully funding the deductible on a reimbursement basis. The Town references a net cost reduction of \$21,600.

The Town proposes the HRA plan be administered by the Town, or through the third-party administrator, as discussed in the Union brief and shown in the Town's mediation written proposal notes, submitted with the brief.

Deputy Highway Superintendent Premium Pay

Under the expired Collective Bargaining Agreement, the Deputy Highway Superintendent currently receives a \$0.15 per hour premium. Per the Union fact-finding brief submission, the parties agree to increase the rate to \$0.50 per hour premium over and above the rates shown in Appendix B of the Collective Bargaining Agreement, for the duration of the appointment. The dispute is not in the increased rate of pay, but the effective date of the pay. This date can impact the amount of backpay owed by the Town, to any employee serving in the capacity of Deputy Highway Superintendent.

The Union proposes an effective date of June 1, 2017 and references the fact that duties have been performed since the expiration of the 2014 agreement. The individual performing the work should be compensated, with the union recognizing the need to minimize cost and has proposed a June 1, 2017 in lieu of a January 1, 2017 retro date.

The Town proposes a January 1, 2018 date, as the High Deductible Plan and wage increases will be effective on these dates, as noted in the Town brief and written offers during the mediation sessions, submitted in the brief.

V. FACTFINDER'S REPORT AND RECOMMENDATIONS

Both the Town and Union made compelling cases within the submitted briefs in support of their bargaining positions, in relation to the four outstanding unresolved issues discussed in this findings of facts and recommendations report. With a thorough review of the evidence presented and the summary presented in each brief, I offer the recommendations below. The Town and Union (parties) should not read or interpret these as separate or

unrelated. My preference is for the parties to consider the recommendations as a whole and utilize this information as a basis for reaching an agreed upon settlement of this impasse.

Duration

The duration of the predecessor agreement was a three-year term. Both parties were open to a three-year agreement, with the town proposing an additional year, with an end date of December 31, 2020. Because the other recommendations in this report rely on the parties accepting the duration, a three-year agreement is necessary.

Factfinder Recommendation

The parties adopt a three-year agreement covering 2017, 2018 and 2019.

Wages

The record showed a significant savings to the Town, with the Union agreeing on the High Deductible Plan, which would leave room for wage increases. The Town stated that wage increases would only be available with (if still possible) the implementation of the High Deductible Plan in 2018.

The Town's outlined wage proposal, submitted in the brief was for wage increases in 2018, 2019 and 2020, with a \$0 for year 2017. Understanding the year of 2017 is now over. However, \$0.00 in 2017 is inadequate with the significant movement to the High Deductible Plan by the Union and the added savings with this change in insurance plan.

The Union's last wage proposal was a \$1,000 lump sum for 2017 and \$0.60 per hour increases in 2018 and 2019, retro payment in 2018 to January 1, 2018. The Union references

hourly rates from local unions that are higher than then current rates for the hourly employee's in the Town of Tyrone.

I believe that with the implementation of the High Deductible Plan in 2018 (if possible January 1, 2018 or when the impasse is settled) there are sufficient funds available for greater wage increases in 2018 and 2019, with retro in 2017.

Factfinder Recommendation

The wage increase be structured, as recommended below:

| Year | Increase |
|-------------|---|
| 2017 | \$500 lump sum |
| 2018 | \$0.55 per hour increase (HDP Plan Implemented and retro to 1/1/2018 or when the impasse is settled/effective date) |
| 2019 | \$0.60 per hour increase |

| Year | Increase (if HDP implementation is not possible in 2018) |
|-------------|---|
| 2017 | \$500 lump sum |
| 2018 | \$0.50 per hour increase (retro to 1/1/2018) |
| 2019 | \$0.60 per hour increase (with HDP plan implemented) |

Health Insurance: High Deductible Plan and HRA Administration

Both parties presented compelling evidence and examples of health insurance cost structure changes. The Town, wants a twelve percent (12%) contribution for the High Deductible Plan, upon implementation. The Town presented evidence that the employees will receive an additional 2% compensation increase in the form of additional take home pay because of the decrease in employee premiums under the High Deductible Plan.

The Union also made a strong case as to the savings that the Town will see with a change to the High Deductible Plan, which should impact the percentage paid towards the employee contribution and wage increases over the length of the contract.

The other issue unresolved and presented in the briefs, is the administration of the HRA. The Union citing the use of a third party as an additional economic burden on the town, resulting in increases healthcare costs for employees. The Town, is proposing to manage the HRA plan and is choosing to have the plan administered by a third-party vendor.

The change to an HDP plan is significant to the workforce and will save money for both the Town and the employee's in 2018 and the preceding years. Health insurance costs continue to rise for organizations and employees. This is a significant change for the Town and Union.

Factfinder Recommendation

The parties adopt the High Deductible Plan in 2018, if possible on January 1, 2018, or when the dispute is settled.

High Deductible Plan Premium Costs as follows:

| Year | Employee Premium Costs |
|-------------|-------------------------------|
| 2018 | 10% |
| 2019 | 12% |

High Deductible Plan Premium Costs as follows:

| Year | Employee Premium Costs (Not possible to implement in 2018) |
|-------------|---|
| 2018 | 10% |
| 2019 | 10% |

HRA Administration:

This recommendation is for the employer (Town) to manage the HRA plan, with the change to the High Deductible Plan and utilize a third-party administrator if that is the choice of the Town.

Deputy Highway Superintendent Premium Pay: Date Resolution

The Town and Union have agreed on the premium pay rate of \$0.50 over and above the rates, as outlined in Appendix B of the Collective Bargaining Agreement. The unresolved issue is the date at which the increase should begin. The Union proposing a date of June 1, 2017 and the Town proposing a start date of January 1, 2018.

Factfinder Recommendation

The Deputy Highway Superintendent Premium Pay, recommended start date of the new premium is January 1, 2018, with any retro paid from the date (1/1/18) work has been performed.

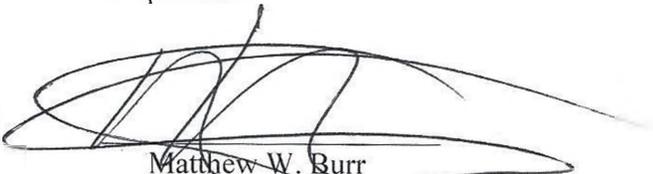
VI. CONCLUSION

It was clear to me from the multiple conference calls and the submitted briefs that the parties have passionately represented their respective interests throughout the processes; bargaining, mediation and fact finding. I believe that both parties continued to negotiate in good faith and will continue to do so until the impasse is resolved and an agreement is reached.

My recommendations were based on the financial data and additional information submitted by both parties for the argument of their proposals and recommendations. I considered the Town's ability to pay and the Town's ability to remain fiscally viable long-term, while reviewing the significant changes bargained and agreed upon with the Union. It is my desire as the Fact Finder to see this impasse brought to a ready and agreed upon conclusion. I would like to see the Town and Union consider the recommendations and use it as the basis to resolve the impasse and settle the four outstanding issues and the contract.

If for any reason, within the five days of receipt of this Report, a resolution is reached, please notify me of such. If this Report is to be used to conclude the impasse in Tyrone, I am available by phone or email, to assist in the resolution of the impasse. Each Party will be allowed to contact the Fact Finder by conference call if they wish any explanations of the recommendations. I will make no attempt to justify any of my conclusions.

Under the Taylor Law, this report is made private for at least five (5) days, after the transmission of the report. After that, I am obligated to release the findings recommendations to the public.


Matthew W. Burr
PERB Fact Finder

3/26/2015
Date