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**Teamsters Local 249
and
Greentree Borough**

Case No: PERA-F-21-196-W

Dear Counselors:

Enclosed is the fact-finding report in the above-captioned case. Parties have ten (10) calendar days from the date of issuance of this report to inform the Pennsylvania Labor Relations Board (PLRB) and each other if they accept or reject this report.

Confidentiality of the report should be maintained during the ten-day consideration period and until officially released for publication by the Board in the event of a rejection.

Acceptance of the report must constitute approval of the report in its entirety and on an unqualified basis. The options are simply "accept" or "reject."

Positions of the parties may be communicated to the PLRB by telephone on the last day of the consideration period and confirmed by a letter.

If there are any questions, please contact the Secretary of the PLRB at 717-787-1091.

Sincerely,

Jared D. Simmer

Jared D. Simmer, MLIR, JD, EdD
Fact-finder

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD**

In the Matter of Fact-Finding Between:

Teamsters Local 249

- and -

Green Tree Borough

Case No: PERA-F-21-196-W

Fact-Finder's Report and Recommendations

Appearances:

For the Union: Patrick Lemon, Esq.
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At the outset, the Fact-finder would like to begin by taking a moment to commend both parties for the thorough, respectful and professional manner in which they represented their client's interests at the hearing.

BACKGROUND

Pursuant to the Pennsylvania Public Employer Relations Act (PERA), on September 21, 2021, Jared D. Simmer, Esq., was appointed by the Pennsylvania Public Relations Board (PLRB) to serve as a fact-finder in the above-captioned case. This matter involves a contract impasse for a successor collective bargaining agreement (hereinafter "contract") between Teamsters Local Union No. 205 (hereinafter "Union") and Green Tree Borough (hereinafter "Borough").

Green Tree Borough is located just outside of the city of Pittsburgh, PA. It borders five Pittsburgh neighborhoods: Oakwood and Westwood to the north, Ridgemont to the northeast, Banksville to the east, and East Carnegie to the west, and shares a sixth border with Scott Township to the south. It

occupies about two square miles, and as of 2018 has approximately 5,000 residents. The median household income in the Borough is about \$54,000, and median family income \$63,800, with approximately 1.7% of families and 2.8% of the population below the poverty line.¹

The Borough employs ten non-represented part-time and full-time staff, a unionized police force, and seven employees represented by Teamsters Local 249 – six working in the Public Works Department and one custodial position.

It appears the parties have a mature and productive working relationship having settled prior contracts on their own in collective bargaining. The current contract ran from April 1, 2018 through March 31, 2021, with the parties working under the terms of the expired agreement. In negotiations, the parties were able to resolve all but three issues: contract duration, wages and an editorial change to the scheduling and overtime language provision of the contract.

With the parties at impasse on these issues, on September 7, 2021 the Borough filed a request with the PLRB for fact-finding and appointment of a fact-finder. On September 21, 2021 the PLRB appointed me, Jared D. Simmer, Esq., to serve as the fact-finder, with my report due within forty days of my appointment, i.e., on/before November 1, 2021.

The fact-finding hearing was held on October 18, 2021 in the Borough's Administration Building. In attendance for the Union were Patrick Lemon, Esq. and Thomas Huck, Union President. In attendance for the Borough were John McCreary, Esq., Judy Miller, Borough Manager, and Babette Legler, Finance Director.

During the hearing, both parties were afforded the opportunity to examine and cross-examine witnesses and present evidence in support of their respective positions. Pursuant to PLRB rules and regulations, in advance of the hearing the parties provided me with a copy of their contract, written statements of the issues in dispute, and a summary of each party's position on the unresolved issues.

The issues to be addressed in this report were as set forth in the parties' written prehearing statements. In arriving at my recommendations in the Report, I took the following factors into account:

- The provisions of the parties' current contract.
- The evidence that was introduced into the record.
- How Local 249 employees compare to similarly situated public sector employees doing comparable work for surrounding municipalities (external equity).

¹ Wikipedia.

- How Local 249 employees compare to the non-represented Borough employees (internal equity).
- The projected economic impact of each proposed contract change on the Borough's finances.
- And, finally, an attempt to ensure that my recommendations balance the equities of both parties, take into account their long-term, constructive working relationship, recognize the Borough's acknowledgment of the exemplary service the members of this bargaining unit provide to Borough residents, and most importantly, to provide a workable framework that allows the parties to reach a new contract.

ISSUES IN DISPUTE AND THE FACT-FINDER'S RECOMMENDATIONS

It is my belief that the following recommendations are supported by the evidence of record, balance the respective concerns of both the parties, take into account the concerns of the taxpaying public, and offer a reasonable basis for a new contract.

Issue No. 1: Article VII/Compensation

Exhibit A

Borough's proposals

Initial offer – rejected by the Union:

- Contract term: 3 years
- Annual wage increases: 2% - 2% - 2%
- Retroactivity: No
- No changes to benefits provided or employee contribution towards the cost of those benefits

Second offer – rejected by the Union:

- Contract term: 3 years
- Annual wage increases: 2.25% - 2.5% - 2.5% [2% - 2% - 2% for the custodian position]
- Retroactivity: No
- Uniform allowance: Expanded use of uniform allowance to cover up to \$200 (for) tools required to perform assigned tasks.
- Scheduling and overtime language clarification – Article 7.4, paragraph 2, Call-in Pay: In the last sentence, proposed eliminating, "*Between the hours of 11:00 pm and 7:00 am...*"
- Contribution to Medical Benefit Premium – Article 8.1, E.: As of 1-1-2023, reduce the share of premium cost increases borne by the Borough by requiring employees to assume half the cost of any increase in premiums as of that date.

Best and final offer – rejected by the Union:

- Contract term: Two years

- Annual wage increases: 2.25% - 2.5% [2% - 2% for the custodian position]
- Retroactivity: No
- Uniform allowance: Expanded use of uniform allowance to cover up to \$200 (for) tools required to perform assigned tasks.
- Scheduling and overtime language clarification – Article 7.4, paragraph 2, Call-in Pay: In the last sentence, proposed eliminating, “Between the hours of 11:00 pm and 7:00 am...”

Union’s proposal

Offer – rejected by the Borough:

- Contract term: Four years
- Annual wage increases: 4% - 4% - 4% - 4%
- Retroactivity: Yes

Discussion

When evaluating economic proposals, fact-finders must take various factors into consideration, including employee’s standing relative to co-workers (*internal equity*), employee’s standing relative to comparable public sector positions with other employers (*external equity*), what’s fair to residents (taxpayers), economic conditions in general (local/state/national), and the employer’s financial condition in particular (past, current and projected).²

A. General economic conditions. It’s self-evident that the pandemic, which has raged for almost two years with scant signs of abating in the near future, has not only severely impacted municipal budgets, but given the uncertainty of the length and depth of the pandemic, has also complicated their ability to make accurate budget projections.

One sector of the economy particularly hard hit by the effects of the pandemic has been commercial real estate. Business bankruptcies, mask and social-distancing mandates, forced closures, declining revenues and an exponential increase in the number of employees working from home have led to building vacancies, caused companies to cease doing business or decline to renew their lease, and decimated foot traffic in hotels and restaurants. Clearly, the impact on this sector is so widespread that one cannot assume with any level of assurance that the numerous commercial properties located in the Borough have or will avoid a similar fate.

One way that owners of commercial real estate respond to dire economic conditions is by challenging the tax assessed value of their properties. Therefore, to the degree that properties in the Borough pursue this strategy and then are successful in having their assessments reduced,

² Which may, but not necessarily, involve its “ability to pay.”

the Borough will in turn experience what could be a precipitous decline in the tax revenue it collects.³

B. Borough's finances. In Green Tree, the pandemic's impact on commercial properties is of particular concern because the real estate tax is the Borough's primary source of revenue. For that reason, back in 2020 during the budget planning process, the Borough concluded that the pandemic would have a major impact on its 2021 budget, and so its plan to ensure financial stability in anticipation of expected revenue losses included postponing road resurfacing, and delaying commencing repairs to the Trumbull Drive Bridge.

To lend legitimacy to concerns about the impact of the pandemic on real estate assessments, one of the commercial properties in the Borough, the Double Tree Hotel, appealed its assessed value and won, leading to a loss of \$64,000 in tax revenue for just this one property alone. Given this successful appeal, it's not difficult to imagine that other commercial properties in the Borough will be incentivized to pursue similar redress.

After commercial real estate, the second largest revenue generator for the Borough is the Business Privilege Tax, generated by the gross receipts of businesses operating within the Borough.⁴ In its budget projections, the Borough projected that this revenue stream would also decline, and by as much as 22% in 2021, resulting in an additional \$250,000 in lost revenue going forward.⁵

These developments then raise the following question – whether or not shortfalls in the Borough's tax revenue collections going forward will continue? While there's no way of knowing for sure, the evidence would suggest that while the Borough's current budget position may be manageable at the present time, it appears increasingly unlikely that this will remain the case in 2022 and beyond.

C. Internal equity. The Borough's workforce is comprised of three groups of employees: a represented police unit, unrepresented staff employees, and members of Teamster Local 249. The non-represented staff received a 2.25% raise in 2021, the same annual increase the Borough offered Local 249 in negotiations. On the other hand, the police unit, whose contract expires at the end of 2023, had its wage rates determined in arbitration a few years ago.⁶

In the interest of fairness and consistency, the Borough proposed that members of Local 249 receive the same 2.25% wage increase as that received by the non-represented staff. While the

³ The Borough projected a 3.4% decrease in real estate tax collections for 2021 (-\$94,000).

⁴ For example, businesses such as hotels, restaurants, etc.

⁵ In fact, the Borough's Business Privilege Tax collections declined from \$1,153,371 in 2019 to \$1,044,000 in 2020.

⁶ While I cannot be sure, I presume that the arbitration award that determined the Police unit's pay preceded the advent of the pandemic.

Borough expressed appreciation for the consistently excellent service these employees provide, it pointed out that presently they are not only very well compensated relative to outside comparables, but also as it relates to matters of internal equity. As an example, the wage rate for the custodian, the lowest paid position in this bargaining unit, is paid more than an Assistant Director at the Library which requires a college degree, and the highest paid members of Public Works Department earn more than the Director of the Library.

However, in spite of its budget difficulties, the Borough believes that a 2.25% raise for Local 249 employees (2% for the custodian)⁷ in the first year of its proposed two-year agreement, and a 2.5% raise (2% for the custodian) in the second year, is fair.

D. External equity. For comparables, the Borough chose similarly situated employees in the following surrounding municipalities – Dormont, Carnegie, Crafton, Sewickley, Collier Township, Franklin Park Borough, Blawnox Borough, Penn Hills Township, O’Hara Township, Scott Township, Upper Saint Clair, Mt. Lebanon, Castle Shannon, and Ross Township.⁸

However, instead of comparing gross annual compensation, the Borough compared take-home pay, i.e., gross pay minus employees’ share of health insurance costs and retirement plan contributions. It explained that it took this approach because compensation is comprised of more than just hourly pay. And, because the benefits that Local 249 receives are so generous, e.g., unlike other public employers, it picks up 100% of employees’ retirement plan contributions⁹ (i.e., 16% of gross pay - employees contribute \$0 each pay period), and provides extremely generous health insurance coverage at minimal cost to employees, along with very low co-pays and deductibles, it made more sense to focus on net pay (hourly pay – costs that employees are responsible for and have deducted from their pay). To illustrate, of the Borough’s annual cost for family coverage of \$24,000/year (\$2000/month), Local 249 is only responsible to pay \$1745 of that total (\$145/month, or about 7.5%).¹⁰

Under the Borough’s rubric, in a comparison of what employees pay for family health insurance, this bargaining unit is responsible for a smaller share of costs than employees in eight of the nine comparable municipalities, and likely in all cases, the Borough’s plan provides better coverage.¹¹

Similarly, when comparing base salary net of employee pension contributions, Local 249 again fares better than employees in other municipalities, and in most cases by a significant

⁷ At the hearing, the Union expressed agreement with limiting the custodian position’s annual increase in pay to 2%.

⁸ I note that the Union did not take issue with either the Borough’s choice of comparables, or its data analysis.

⁹ 11%-16% of their gross pay based on length of service.

¹⁰ \$0 deductibles and \$10-20 co-pays.

¹¹ Only the employees working for Castle Shannon pay less.

amount.¹² And, finally, when comparing Local 249 and comparable employees' compensation net of both pension and health care deductions,¹³ Local 249's net pay remains at or near the top.

E. Taxpayer considerations. In the final analysis, any increase in costs are ultimately directly or indirectly borne by Borough residents in the form of either higher taxes and/or lesser services. In fact, in anticipation of projected budget difficulties, the Borough raised local real estate taxes just last year.

Like many Americans, resident's purchasing power is being eroded not only by the highest inflation rate in decades, but rapidly escalating prices of basic consumer goods as well (e.g., food, gasoline, and natural gas for instance). Further, an unknown number are either unemployed, underemployed, working reduced hours, or employed but receiving no increase in wages. And, in all likelihood, working Borough resident's benefits, either in scope or cost, are nowhere near as generous as those Local 249 currently receives.

F. Conclusions. Based on the foregoing considerations, my recommendations are predicated on the following findings:

1. Members of this bargaining unit deliver excellent services, and their work is recognized and appreciated by both the Borough as well as residents. However, given current and projected economic conditions, and the disproportionate share of the Borough's budget that comes from commercial real estate and business privilege tax revenue which in all likelihood will be impacted by additional tax assessment appeals, for the foreseeable future the Borough's finances must continue to be managed conservatively.
2. Additionally, as a matter of internal equity, there is nothing of record that would allow me to conclude that this unit warrants receiving a larger general wage increase in the first year of the new contract than the 2.25% that Borough staff received last year, particularly when, at current wage rates, Local 249, including the custodian position, are already paid more than the Borough's college-educated professional staff.
3. While the Union did present evidence that employees in other municipalities have and will be receiving 3% annual wage increases on average, less than what the Borough had offered, upon closer examination, not only does it appear that some of these scheduled increases were negotiated before the pandemic, but it overlooks the more accurate calculation of the significant advantage this unit enjoys in take-home pay when payroll deductions for health care and retirement are factored in.

¹² \$69,995 for this group of employees, with comparable employees averaging only between \$55,877 and \$67,743.

¹³ That is, gross compensation, minus employee contributions for pension and health care costs.

4. Finally, I note that the Borough's final offer dropped efforts to reduce employees' benefit levels or increase their share of the costs of those benefits. To me this was a considerable concession given that the projected escalation in health care costs, and the concomitant share that the Borough assumes, is unsustainable.

G. Fact-finder's recommendations

1. In the first year of the contract (4/1/2021 – 3/31/2022), I recommend that non-custodial employees receive the same 2.25% general wage increase as Borough staff.
2. In the second year of the contract (4/1/2022 – 3/31/2023), I believe that the Borough's proposed general wage increase of 2.50% for non-custodial employees is more than fair given the current level of uncertainty surrounding projected property tax collections within the next 1-2 years and its potential impact on the Borough's budget.
3. However, in light of the general consensus that the wage rate for the custodian position is overly generous relative both to the market as well as compared to the Borough's professional librarians' pay, I recommend that the wage increase for that position be 2% in both the first and second years of the new contract.
4. In light of the parties' good working relationship, and their good faith effort to reach a new agreement over the past six months, I recommend that the wage increase in the first year of the contract be made retroactive back to the recommended start date of the new contract, i.e., 4/1/2021, infra.
5. Because so much is currently unknown, e.g., what wage adjustment, if any, Borough staff will receive in FY 2022 and 2023, what wage adjustments the police unit will receive in their next contract, nor the health of the Borough's budget going forward, I recommend a wage reopener to determine wage rates for the third and final year of the contract. While the parties are free to come up with their own language in the new contract, I suggest adoption of the following wording:

"Three months prior to the expiration of the second year of the contract, the contract will be reopened for the sole purpose of negotiating the wage rates in the third and final year of the agreement."

Article XV. Term of Agreement

Borough's proposal – rejected by the Union:

- Initial offer: 3 years
- Second offer: 3 years
- Final offer: 2 years
- Start date: Ambivalent

Union’s proposal - rejected by the Borough:

Offer: 4 years

Start date: Ambivalent

Discussion

The parties have traditionally negotiated three-year contracts. I can find no benefit to either party to change that pattern. In addition, a three-year agreement clearly provides a longer period of labor stability than does a two-year contract. While the Union suggested a four-year agreement, I believe that because there is so much uncertainty at the moment, both as to the state of the economy, as well as the possible need to address rising benefit’s costs sooner rather than later, a contract of this duration would not be prudent.

As for the start date of the new contract, I not only can see no benefit in changing the scheduled April 1, 2021 start date per the March 31, 2021 scheduled expiration date of the current agreement, but this date accommodates my recommendation for wage retroactivity, infra.

Fact-finder’s recommendations

I recommend adoption of current language, but with updated start and expiration dates as discussed, supra:

This agreement shall be effective from the 1st day of April 2021 and shall remain in full force and effect until March 31, 2024. This agreement shall automatically renew itself from year to year thereafter unless negotiations are requested from either party to amend or modify this agreement in accordance with applicable law.

Miscellaneous

My fact-finding Report addressed two of the issues at impasse – wages and contract duration. However, two other issues raised by the Borough, only one technically at impasse, were also discussed at the hearing – the Borough’s proposed enhancement to the uniform allowance, and its proposed clarification of the scheduling and overtime language.

More particularly, the Borough’s suggestion was the, “(E)xpanded use of the uniform allowance to cover up to \$200 to purchase tools required for employees to perform assigned tasks.”¹⁴ And, it proposed clarifying Article 7.4, paragraph 2, Call-in Pay, i.e., by eliminating the following phrase from the beginning of the last sentence: “Between the hours of 11:00 pm and 7:00 am...” In other words, with the deletion, the sentence would read, “~~Between the hours of 11:00 pm and 7:00 am,~~ If an employee fails to answer the telephone, the employee shall not be eligible for the next available overtime/callout shift.”

¹⁴ This wording is verbatim from the Borough’s Best and Final Offer.

Because the Union expressed verbal agreement in the hearing for these proposals, I recommend that both be adopted into the new contract verbatim, as I also do for any tentative agreements the parties reached in advance of the hearing.

With these recommendations, this Report is complete.

Respectfully submitted,

Jared D. Simmer

Jared D. Simmer

Fact-finder

Addendum

- PROPOSED WAGE SCHEDULE -

Green Tree Borough
Public Works Department

4/1/2021 – 3/31/2024

| | Current wage | Proposed wage – 1 st year of the contract (4/1/2021 – 3/31/2022) | Proposed wage – 2 nd year of the contract (4/1/2022 – 3/31/2023) | Proposed wage – 3 rd year of the contract (4/1/2023 - 3/31/2024) |
|---------------------|--------------|--|--|--|
| | | 2.25% increase | 2.50% increase | |
| Craftsman I | \$29.01 | \$29.66 | \$30.40 | Reopener |
| Craftsman II | \$30.63 | \$31.32 | \$32.10 | Reopener |
| | | | | |
| | | 2% | 2% | |
| Custodian | \$22.27 | \$22.72 | \$23.17 | Reopener |

CERTIFICATE OF SERVICE

I, Jared D. Simmer do hereby certify that a true and correct copy of the foregoing Fact-finder's Report was emailed, and also send by overnight mail, this 1st day of November, 2021 upon the following:

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