

STATE OF NEW YORK – COUNTY OF FULTON
NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

In The Matter of the Fact Finding Between

CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFSCME,
AFL-CIO, FULTON COUNTY UNIT LOCAL 818

PERB CASE M2011-029

-and-

COUNTY OF FULTON

Appearances:

Gordon R. Mayo, Esq., Fact Finder

Charles Barley, Labor Relations Specialist, CSEA, Inc.

Elayne G. Gold, Esq., Roemer Wallens Gold & Mineaux LLP, for Fulton County

On January 11, 2012 I was appointed as the fact finder in the above contractual dispute between the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, Fulton County Unit Local 818 (hereinafter CSEA) and the County of Fulton (hereinafter County). The predecessor collective bargaining agreement (hereinafter CBA) expired on December 31, 2009, and, after numerous negotiating sessions, the parties were unable to reach consensus on a successor agreement. PERB-directed mediation failed to reach a successful conclusion; subsequently, the parties again attempted to resolve the matter through an exchange of proposals. This final effort was unsuccessful, and CSEA filed for fact finding on or about December 15, 2011. I met with the parties on July 13, 2013, and a major portion of the day was spent

attempting to craft an agreement. Those efforts were unsuccessful, and a fact finding hearing was held on October 10, 2012. Both parties submitted closing briefs, which were received by me on or about November 14, 2012.

Although there are there are several other items that I will briefly discuss, the most compelling issues facing the parties are compensation and health insurance. Fulton County can hardly be described as economically robust. The unemployment rate exceeds eleven percent, and the economic base to provide a floor under taxes has withered in past years. Once the glove-making center of the country, most of those jobs are now overseas. Because of the high unemployment rate, combined with other economic factors, a major portion of the County's annual budget is spent on mandated program costs, particularly Medicaid and Welfare. When combined with other state mandates (including pension costs), approximately eight-five percent of the County budget pays for mandated services. That being said, the County has behaved very frugally in these tough economic times. The County-owned nursing home was sold, resulting in the cut of approximately two hundred fifty jobs, most of which were in the CSEA bargaining unit. Moreover, three additional County departments – Alcohol and Substance Abuse, Mental Health, and the Certified Home Health Agency – have been privatized. As a result, the County's CSEA workforce has shrunk in half, with the membership now numbering approximately two hundred fifty.

While the workforce has shrunk, the County's unreserved fund balance has not. This account, which can be utilized by the County for most discretionary spending (including raises and real property tax abatement), was in excess of \$12,000,000 in July 2012. Additionally, the County had only \$495,000 in debt, which is extraordinary

in these days of tight budgets and the state-imposed two percent tax cap. As a result of its fiscal prudence, the County has a bond rating of A3 as assessed by Moody's Investor Services, the top rating given to municipalities. The sale of the County nursing facility (\$7,000,000) is not included in the unreserved fund balance, so today's number is more substantial, even accounting for the legacy costs surrounding the closure.

CSEA seeks a four year agreement, with a 0% increase in 2010, a 0% increase in 2011, a 2.25% increase in 2012, retroactive to January 1, 2012 for all employees on the payroll on that date, and a 2.5% increase effective January 1, 2013. The County has countered with a five year proposed agreement. It offers the CSEA membership a 0% increase for 2010, 2011 and 2012, and then a 1.5% increase for both 2013 and 2014. I have reviewed the comparable salaries in both adjoining counties and counties determined to be equivalent by the County, and it appears that the CSEA-represented employees in the most common titles receive significantly lower salaries than their neighbors. Of course, those neighboring counties are not plagued by the unemployment rate that Fulton County faces. According to the County's own figures, a 1% increase in salary across the bargaining unit would cost approximately \$77,000, as there have been no salary increases for nearly three years, and the payroll has remained static. Additionally, the County has proposed lagging County employees' salaries an additional week (there already exists a one week lag).

Attempting to govern a county while being weighed down by state mandates is becoming increasingly difficult in the tax cap era. Costs keep rising, yet the ability to pay for these state programs fall primarily on the residential homeowner in areas

where commercial and industrial sources have withered. CSEA members are taxpayers too, and while their taxes are going up, their salaries have remained stagnant, which is a double whammy. While I commend the County for its fiscal prudence, there is no requirement that its employees should bear an inordinate share of the burden. I therefore propose that the parties enter into a four year agreement with the following salary schedule in place:

2010 – 0% increase

2011 – 0% increase

2012 – 1% increase effective January 1, 2012, for all employees on the payroll on that date, and 1% increase July 1, 2012 for all employees on the payroll on that date.

2013 – 1% increase effective January 1, 2013 for all employees on the payroll on that date, and 1.5% increase on July 1, 2012 for all employees on the payroll on that date.

All the above increases shall be added to the salary schedule.

With a County holding a very large fund balance, this schedule will not cause the County any fiscal difficulty, and will alleviate the pain of two years of zeroes for employees who do not earn large salaries and have had to deal with inflationary pressures without any relief. As to the additional one week of lag payroll, the County shall be given the right to implement this process effective July 1, 2013. Prior to implementing the lag increase, County employees shall have the right to utilize up to five days of benefit time (vacation, personal, holiday and compensatory time), at the employee's discretion, to cover the additional payroll lag week implemented under this provision.

As an additional cost item, CSEA has sought an increase in the boot allowance from its current (and longstanding) \$50.00 per year to \$100.00 per year. Evidence was presented that it is impossible to purchase the proper safety boot for \$50.00, with most footwear of this nature being \$100.00 and above. Approximately seventy employees enjoy this benefit, which would cost the County an additional \$3,500.00 per year. When one takes into account the cost to the County of injuries that might be sustained by employees with substandard equipment, \$3,500.00 seems like a bargain. "Pennywise and pound foolish" is a term that comes immediately to mind; accordingly, an increase of this allowance to \$100.00 per year, effective January 1, 2012, is appropriate.

The health insurance contribution of newly hired employees is an issue that divides the parties, but only on the amount of contribution. Currently, employees who have single insurance coverage do not contribute to their health insurance costs, while family coverage ranges between a 27-30% contribution. New employees pay 50% the first year, and the County proposes that this percentage remain at 20% the second and succeeding years. CSEA has countered with a sliding scale for the first four years of 50%, 20%, 15% and 10% contributions. It is the County's claim that other bargaining units have accepted this 20% number for new employees in their second year (and all subsequent years), and for that reason CSEA should also sign on. Fulton County's family contribution is one of the highest in the area, yet there is no movement on reducing that figure marginally in exchange for the individual increase. Nonetheless, a 20% contribution for new hires after the first year is not unreasonable, given the ever-increasing cost of health insurance.

There are other, less significant issues pending between the parties, but obviously compensation and health insurance are most pressing. Indeed, agreement has been reached on a majority of topics, and hopefully this report can provide a basis for settlement of this dispute, which is now nearly three years in duration. As an aside, there is one issue that has been presented to me that I feel compelled to recuse myself from deciding. That deals with increased compensation for DSS caseworkers who provide services after hours. I authored an arbitration award on this subject last year, in which I dismissed a contractual grievance and instructed the parties to attempt to resolve the matter during collective negotiations. That has not occurred, but because of my prior connection with the issue, I feel that I cannot in good faith render my opinion on the merits of this subject.

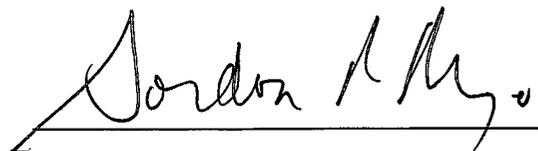
After having reviewed the submissions and proposals by both parties, I hereby make the following recommendations:

1. The parties shall enter into a four year agreement, with a salary schedule as set forth as follows: 0% increase in both 2010 and 2011; 1% increase on January 1, 2012, for all employees on the payroll on that date; 1% increase on July 1, 2012, for all employees on the payroll on that date; 1% increase on January 1, 2013, for all employees on the payroll on that date; 1.5% increase on July 1, 2013, for all employees on the payroll on that date. All increases referred to *supra* shall be on base.

2. The County shall be given the authority to institute an additional week of lag payroll (there already exists one week) on July 1, 2013. Prior to the implementation of the additional lag, County employees shall have the right to utilize up to five days of benefit time (vacation, personal, holiday and compensatory time), at their personal discretion, to cover the additional payroll lag week implemented under this provision.
3. The boot allowance for eligible employees shall be increased from \$50.00 per year to \$100 per year, effective January 1, 2012.
4. Health insurance contributions for new hires who select the individual plan shall remain at 50% during the first year of employment, and then revert to 20% for all ensuing years. Family plan contributions for new hires will remain unchanged.
5. All other contractual issues between the parties shall remain unchanged unless agreed upon following the receipt of this report and its subsequent acceptance by the parties.

The above report addresses the most pressing issues presented to me during the fact finding process, and my recommendations for the manner in which the instant impasse may be resolved.

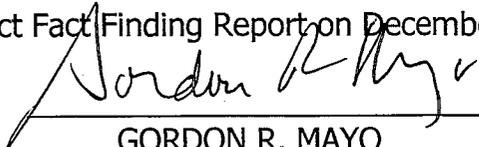
Dated: December 13, 2012

A handwritten signature in black ink that reads "Gordon R. Mayo". The signature is written in a cursive style and is positioned above a solid horizontal line.

GORDON R. MAYO, Fact Finder

STATE OF NEW YORK)
COUNTY OF RENSSELAER) ss.

I, GORDON R. MAYO, an attorney licensed to practice in New York State, do hereby affirm on my oath as Fact Finder that I am the individual described herein and who executed the subject Fact Finding Report on December 13, 2012.



GORDON R. MAYO