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**FACT FINDING REPORT**  
**STATE OF OHIO**  
**STATE EMPLOYMENT RELATIONS BOARD**  
July 13, 2000

In the Matter of: )  
Seneca County Engineer )  
and ) 00-MED-04-0528  
AFSCME, Ohio Council 8 )  
)

**APPEARANCES**

For the Union:  
William F. Fogle, AFSCME Ohio Council 8, Local 3549  
Gregory Kinn, Vice President Equipment Operators  
Bob Schultz, President Local 3549

For Seneca County Engineer:  
Bob Windle, Advanced Management Systems, Inc.  
Carolyn Minges, Seneca County Deputy Engineer  
Mark Zimmerman, Technical Engineering

Mediator and Fact Finder: Louise Hodgson

**BACKGROUND**

The Bargaining Unit consists of 25 Service, Clerical and Maintenance employees reporting to the Seneca County Engineer. Their essential function is road and bridge maintenance in Seneca County, including snow and ice removal. These employees are represented by AFSCME Ohio Council 8. The current contract, which is the parties' fourth contract, expires July 20, 2000. Negotiations on a new contract were held on May 31, June 15 and June 26, 2000.

There were originally 11 issues: Transitional Work, Military Leave, Safety and Health, Residency, Wages, Signing Bonus, Vacations, AFSCME Care Plan, AFSCME "PEOPLE", Duration, and the Jason Soloman grievance. "Military Leave" and "Safety and Health" were signed off by the parties on June 15, and "Transitional Work" was dropped on June 26. The 8 remaining issues were scheduled for a Fact Finding Hearing on July 5, 2000. The parties requested the Fact Finder

to begin the hearing with Mediation and follow with Fact Finding.

The Mediation/Fact Finding hearing was held on July 5, 2000 at the Seneca County Highway Garage, 3210 S. State Route #100, Tiffin, Ohio. It began at 12:00 noon and was adjourned at 3:30 p.m. Mediation and Fact Finding procedures were not conducted sequentially, as planned, but simultaneously as each issue was brought up. Although unintentional, this method, which avoided duplicate presentations, was efficient and productive. Of the 8 issues on the table, these 5 issues were resolved through Mediation: AFSCME Care Plan, AFSCME "P.E.O.P.L.E.", Signing Bonus, Duration, and the Jason Soloman Grievance Settlement. Of the resolved issues, only "Duration" requires a change in the present Contract, and this is a date-change only. The agreed-upon revision is included with my Fact Finding Contract language recommendations. After the successful Mediation, only 3 issues remained to be resolved through formal Fact Finding: Residency, Vacations (Personal Leave/Pay), and Wages.

The Fact Finder wishes to express her appreciation for the courtesy for which she was treated and for the cooperation of both parties in moving the hearing along expeditiously. Since the starting time of the hearing had been changed from 10:00 a.m. to 12 noon, we were left with 2 fewer hours in which to conduct both Mediation and Fact Finding on 13 issues. Throughout the SERB process, from initial arrangements for the hearing, timely submission of issues prior to the hearing, and on through the hearing itself, the Fact Finder was impressed with the cooperation and professionalism exhibited by representatives of both parties.

The Ohio Public Employees Bargaining Statute in Rule 4117-9-05 sets forth criteria for the Fact Finder to consider in making recommendations. These are:

- (1) Past collectively bargained agreements, if any.  
(None were applicable to this case.)
- (2) Comparisons of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.  
(These were submitted by both parties and were considered by the Fact Finder.)
- (3) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effects of the adjustments on the normal standards of public service.  
(These were pointed out by the parties and were considered by the Fact Finder.)
- (4) The lawful authority of the public employer.  
(This was taken into consideration where appropriate.)
- (5) Any stipulations of the parties.  
(These were used by the Fact Finder in her determinations and recommendations.)

- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.  
(There were taken into consideration where appropriate.)

The Report is attached, and the Fact Finder hopes the discussion of the issues is sufficiently clear to be understandable. Both the extremely short time-frame in which the Report must be issued and voted upon and the Fact Finder's having to be out of town July 19-23 preclude a meeting to discuss any questions the parties might have. However, no later than July 18, should a critical matter require clarification, the parties should try to contact the Fact Finder by telephone (313-499-2712) or by fax (313-823-0362).

## INTRODUCTION

Mediation and Fact Finding focused largely on economic issues. Ultimately, interest by both parties in improving existing benefits (from their respective points of view) was greater than in breaking new ground.

After most of the unresolved issues had been settled by the parties themselves (with or without the help of the Mediator), only these 3 issues remained at impasse:

- Article 20, Residency.
- Section 5 of Article 33, Vacation.
- Article 48, Wages/Longevity Pay.

## ARTICLE 20, RESIDENCY

### **Company Position:**

During winter months the weather can be severe, and employees must be able to respond quickly to emergencies. This is why the Contract has always contained a provision that all newly hired employees and current employees now living in the County must maintain residency in Seneca County. However, this provision contains a loophole that the Company wishes to close. This loophole permits employees currently living outside the County to move to another residence outside the County. The County Engineer does not seek to require employees currently living outside the County to move to a residence within the County. It is merely seeking to require that employees currently living outside the County who voluntarily decide to move must move within County limits.

### **Union Position:**

The Union is opposed to having the Employer dictate to employees where they must live if they decide to move. The Company's proposal could be financially devastating if an employee currently living outside the county should inherit property outside the county. The Union strongly

insists on retaining present Contract language.

**Discussion:**

The Company cited no cases where current language had caused problems. Had they done so, the Fact Finder would have been obligated to weigh the issue carefully. Absent any evidence of a past, current or reasonably expected future circumstance of this nature, taking an individual freedom away from employees in order to shield the Employer against hypothetical problems is not justified.

**Findings of Fact:**

Neither party offered any facts in support of their respective positions.

**Suggested Language:**

Retain present Contract language.

ARTICLE 33, VACATION: PERSONAL LEAVE

**Company Position:**

The Company wishes to change the accrual of personal days from an annual to a quarterly basis. Instead of being credited with 4 personal days each July 21, all employees would receive one personal day each quarter, beginning with July 1. This would apply equally to all employees, part-time and full-time, new and existing, and it would be consistent with the provisions of other types of leaves. Requests for personal days, although normally granted, are subject to needs of the service in the same manner as requests for vacations taken in one-day increments. This proposal benefits employees as they could convert personal days not used by the end of the year to their sick leave bank.

**Union Position:**

Some aspects of the Company's proposal will benefit employees. By changing the annual accrual date from July 21 to July 1, employees can select personal days 20 days sooner. Pro-rating for part-timers will be eliminated. New employees will not have to wait as long to get a personal day. A request for a single personal day should be granted automatically. The option of converting unused personal days to sick leave is particularly appealing. However, the main thrust of the Company's proposal is totally unacceptable to the Union. The Union will not agree to changing the present annual accrual of 4 personal days to quarterly accrual, adding one personal day each quarter.

**Discussion:**

The Company's argument about treatment consistent with other types of leaves is unpersuasive. Only Sick Leave is given incrementally (.085 hours of sick leave for each one hour of active pay status). Military Leave, Paternity Leave, Union Leave, Injury Leave, Unpaid Disability Leave, FMLA and ADA Leaves are not accrued on a quarterly basis. The Company's proposal would

help some new employees and hurt other new employees, depending on their date of hire. It would hurt all present full-time employees because it would limit their present freedom to use their 4 personal days at any time during the contract year. Under the Company's proposal, as of July 7 each year, only one personal day would be accrued. A second personal day would be accrued on October 7, a third on January 7, and the 4th would not be accrued until April 7, at which time the contract year would be 3/4 over. However, the baby should not be thrown out with the bath water. Other parts of the Company's proposal should be retained.

**Findings of Fact:**

The Company's proposal does more than change the manner of accrual of the contractually guaranteed 4 personal days annually. It also affects, both favorably and unfavorably, entitlement and use. Newly hired employees would in many cases be the chief beneficiaries. For existing employees, in more cases than not, it could mean forfeiture of existing privileges. Personal days taken one day at a time in most instances could be automatically granted on request. Requests for successive personal days, personal days immediately preceding or following holidays or during emergencies should be reviewed by management in the same manner as requests for single vacation days.

**Suggested Language:**

No change in Sections 1 through 4.

**Section 5: PERSONAL LEAVE** - All full-time employees shall receive four (4) personal days per contract year, which shall be credited to the employee on the pay period of July 1st of each year.

Should a full-time employee be hired after July 1st, the employee shall receive, for the first partial year, one (1) personal day per quarter. On July 1st such employee shall receive four (4) personal days, the same as all other employees.

Part-time employees shall accrue Personal Leave on a pro-rated basis.

Notification and approval of the use of a personal day shall be approved by the Employer upon receipt of notification or telephone call by the employee. Requests for more than one personal day in succession, a day immediately preceding or following a holiday or during an emergency shall be reviewed by management in the same manner as a request for a vacation day in Section 4.

Any Personal Leave not used prior to July 1st, and each year thereafter, will be paid to the employee at that employee's current rate of pay times the number of unused hours of Personal Leave. Employees will be paid this on the second pay check received each year in July unless an employee has requested to convert his unused personal days to his sick leave bank.

Any employee who is separated from employment shall be paid for all unused Personal Leave

within thirty (30) days of the date of separation.

## ARTICLE 48: WAGES / LONGEVITY PAY

### **Union Position:**

The Union is asking for across-the-board and inequity increases as follows:

On 7-21-2000: .45 on all rates.

On 7-21-2001: .45 on all rates, plus .20 on Equipment Operator #1 and .25 on Equipment Operator #2 and Mechanic.

On 7-21-2002: .45 on all rates.

This will bring Seneca up to the average wages of comparable counties in Northwest Ohio (Lucas, Erie, Henry and Huron) where the average rate is \$15.58.

Seneca's average rate of \$11.19 is lower than the National average of \$16.05, lower than the Cleveland Area average of \$15.15, and lower than the Toledo Area average of \$14.29.

Most other County Engineering Offices are offering 3% increases. A .45 increase is comparable to 3%.

### **Employer Position:**

The County Engineer proposes a wage equity adjustment of .25 to the Mechanic classification and across-the-board increases of .30 - .32 - .35, effective upon ratification and annually thereafter.

This is consistent with that was bargained in 1991 and 1994.

**Wage Comparability With Peer Group.** Rather than comparing Seneca County's wages with wages in the 4 richest counties in Northwest Ohio, it is more realistic to use a larger and more representative list of counties. Since Seneca County's population is around 60,000, the Employer has compared Seneca's wages with the wages of employees in comparable classifications in the 18 counties with 30,000-90,000 populations. The wages of Seneca's Equipment Operator #1, Equipment Operator #2 and Mechanic slightly exceed both the average and the median wage in these 18 counties. The wage of Seneca's Highway Worker #2 far exceeds both the average and the median wage in these 18 comparable counties. The Employer's proposed wage increase will keep bargaining unit employees in their favorable, relative standing.

**Inflation:** According to the U.S. Department of Labor, the most recent CPI is 2%. The wage increase proposed by the Employer exceeds the current rate of inflation.

**Wage Increases in Seneca County:** The City of Tiffin negotiated a 3% increase with AFSCME Ohio Council 8. The Employer's proposed wage increase for the County Engineer is consistent with the wage increase granted other County employees.

**Ability to Pay:** The Seneca County Engineer's budget, which is financed from taxes on gasoline, is adversely affected by the exorbitant surge in gasoline prices. As gasoline prices increase, gasoline consumption decreases and hence the Engineer's revenues decrease. The Engineer's Department is further adversely affected by the increase in gasoline prices, as the prices it must pay for fuel and petroleum-based materials dramatically increases. The Employer is able to pay for *its* proposed wage increase but not for the unrealistically high increase proposed by the Union.

### **Discussion:**

Obviously, each party submits comparables that best support its position. Seeking as large a wage increase as possible, the Union compares Seneca County Engineer wage rates with those in Lucas, Erie, Henry and Huron counties--the four richest counties in Northwest Ohio. The Employer maintains that a realistic comparison would require a broad base, would include counties with conditions similar to those in Seneca, and would be occupation-specific. As Seneca's population is around 60,000, counties in the 30,000-90,000 population range would be appropriate for comparison. There are 18 such counties in Ohio. The problem is that SERB data are based on *annual earnings*. Dividing these by 2080 (the number of hours in a year for a 40-hour employee) converts the figures to *hourly earnings*. Hourly *earnings* are not the same as hourly *wage rates*, but they can serve as a rough basis for relative comparisons, as we have no better data on which to rely. Because hourly *earnings* exceed hourly *wage rates*, I used Seneca's highest wage rates (those for "21 plus" longevity), comparing Seneca's hourly wage rates for EO#1, EO#2, Mechanic, and Highway Worker #2 hourly earnings in the 18 counties. In each case Seneca employees equalled or exceeded both the average and the median rate for the 18 counties. This indicates that no dramatic "catch-up" is needed. However, I recommend front-loading, with the largest increase the first year and modest increases the second and third years. Giving employees more money *now* has great employee appeal and could aid in ratification. It also continues throughout the contract. The first year increase should be in the 3% area so as to be comparable to increases given in other Seneca County bargaining units as well as in many other counties. I have included an additional .25 for the Mechanic, because the Employer was willing to give this. The second and third year increases would be .30 and .32 respectively, per the Employer's final offer.

### **Findings of Fact:**

- . The most highly populated longevity category in this Bargaining Unit is "21+" years.
- . The expired contract contained .37 - .38 - .39 wage increases.
- . Inflation is currently 2%.
- . The City of Tiffin, in Seneca County, negotiated a 3% increase with AFSCME, Ohio Council 8.
- . SERB's 5/2000 report of negotiated wage increases among County Engineering Departments statewide showed the most common percent increase to be 3%.
- . The same SERB report showed a single increase at .20, the others ranging from .30 to .37, the most common being .33.
- . Seneca County is a medium-size county, with a population of 60,000.
- . The average wage rates of Seneca's OE#1, OE#2, Mechanic, and Highway Worker #2 classifications are near the midpoint of these classifications in the 18 counties with 30,000-90,000 population, and in each case they exceed both the average and median rates.
- . Employees in this bargaining unit maintain roads and highways in Seneca County and keep them free of ice and snow in winter. This is an essential function for the general public.
- . The County Engineer's budget is financed by a portion of gasoline taxes. Available money varies with the price of gasoline and how much people drive.

**Suggested Language**

**ARTICLE 48**  
**WAGES / LONGEVITY PAY**

**SECTION 1.** Employees rates of pay effective 7-21-2000 are as follows:

<u>Classification</u>	<u>LENGTH OF SERVICE (YEARS)</u>				
	<u>less than 1</u>	<u>1 thru 5</u>	<u>6 thru 12</u>	<u>13 thru 20</u>	<u>21+</u>
Custodial Worker 1	8.42	8.67	9.70	10.99	11.51
Security Officer 1	8.42	8.67	9.70	10.99	11.51
Secretary 1	8.42	8.67	9.70	10.99	11.51
Highway Worker 2	9.19	9.70	10.73	11.76	12.28
Bridge Worker 1	9.19	9.70	10.73	11.76	12.28
Route Marker 1	9.19	9.70	10.73	11.76	12.28
Storekeeper/Comm Tech	9.19	9.70	10.73	11.76	12.28
Equipment Oper 1	9.65	10.17	11.20	12.23	12.74
Equip Oper 2	9.96	10.48	11.51	12.54	13.05
Mechanic 1	10.21	10.73	11.76	12.79	13.30

\* Bridge crew to receive an additional thirty-five cents (\$.35) differential.

**SECTION 2.** The above rates shall be increased an additional thirty cents (\$ .30) per hour effective 7-21-2001.

**SECTION 3.** The above rates in Sections 1 and 2 shall be increased by thirty-two cents (\$ .32) per hour effective 7-21-2002.

Employees shall move through the above schedule on their anniversary dates.

## ARTICLE 53: DURATION

The Company and the Union have agreed on the following date changes.

### **ARTICLE 53** **DURATION**

**Section 1.** This Agreement shall be effective as (sic; should be "at") date of ratification and shall remain in full force and effect until July 20, 2003 at 11:59 P.M. If either party desires to modify, alter, amend or terminate this Agreement, it shall give notice in writing to the other party no earlier than ninety (90) days prior to the expiration date. Negotiations for a successor Agreement shall begin within two (2) weeks of receipt of such notice or on a mutually agreed-upon date.

## PROOF OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served on the following by sending it Express Mail overnight delivery on July 13, 2000 for receipt on July 14, 2000.

Mr. William F. Fogel, Staff Representative  
AFSCME Ohio Council 8, Local 3540  
420 South Reynolds Road, Suite 108  
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Mr. Robert W. Windle  
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By regular First Mail:

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State Employment Relations Board  
65 E. State Street, 12th Floor  
Columbus, OH 43215-4213

July 13, 2000  
Date

Louise Hodgson  
Louise Hodgson, SERB Fact Finder