

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD

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In the Matter of Fact-Finding	*	FINDINGS
Between	*	
	*	AND
LABORERS INTERNATIONAL	*	
UNION OF NORTH AMERICA,	*	RECOMMENDATIONS
LOCAL 860	*	
	*	Case No. 00-MED-08-0805
and	*	
	*	Anna DuVal Smith
CITY OF GENEVA	*	Fact-Finder

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Appearances

For the Laborers International Union of North America, Local 860:

Kenny Yuko, Organizer  
Laborers Local 860  
4220 Prospect Avenue  
Cleveland, Ohio 44103

For the City of Geneva:

Craig R. Zins, City Manager  
City Manager's Office  
44 North Forest Street  
Geneva, Ohio 44041

## INTRODUCTION

This matter came for hearing at 10:00 a.m. on December 8, 2000, at the Administration Building in Geneva, Ohio, before Anna DuVal Smith who was appointed Fact-Finder pursuant to Chapter 4117 O.R.C. on October 17, 2000. Representing the City of Geneva was Craig R. Zins, City Manager. Giving evidence for the City of Geneva was Lynda Rossiter, Director of Finance. Representing Laborers International Union of North America, Local 860 (the "Union"), was Kenny Yuko, Organizer. Also present was Carl L. Vincent, Maintenance Worker/Wastewater. Pre-hearing statements were timely filed prior to the day of the hearing. Both parties were afforded a complete opportunity to examine witnesses to present written evidence, and to argue their respective positions. Admitted into evidence were four City exhibits and two Union exhibits. Following conclusion of the oral hearing at 10:55 a.m., the record was kept open to receive a written closing statement from the Union and a reply, if any, from the City. Said Union's written closing statement, along with six additional exhibits, was timely filed by facsimile on December 15. The City submitted its reply, including its objection to the documentary evidence, by facsimile later that day, whereupon the record was closed.

In rendering these Findings and Recommendations, the Fact-Finder has given full consideration to all reliable information relevant to the issues. As ruled on December 8, this includes written argument and counterargument submitted on or before December 15, but not evidentiary material reasonably available for the hearing on December 8 but not offered on or

before that date. She has also given full consideration to all criteria specified in

§4117.14(C)(4)(e) and Rule 4117-9-05 (J) and (K) O.A.C., to wit:

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison 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;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Stipulations of the parties;
- (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 in private employment.

## BACKGROUND

Street Department employees of the City of Geneva, located in northeast Ohio approximately 45 miles east of Cleveland, have been represented by Laborers International Union of North America, Local 860, for some years. In 2000, Wastewater Treatment employees chose the same union to represent them for the purpose of bargaining wages, hours, and other terms and conditions of employment. At the time of the hearing, there were three members of the bargaining unit: a Laborer, a Laboratory Technician I (eligible for Laboratory Technician II) and a Maintenance Worker. A fourth position, Operator, was vacant. Efforts to negotiate an initial contract were unsuccessful despite the assistance of a federal mediator. The parties characterized their negotiations as “dysfunctional,” each holding the other responsible. Following her appointment, the Fact-Finder met with the parties on November 10 in a further attempt to mediate the outstanding issues, but this effort, too, was unsuccessful. By the time of the hearing on December 8, fourteen issues were unresolved. One of these,

Call-In-Pay, was withdrawn at the hearing. Evidence and argument were accordingly taken on thirteen issues:

1. Union Recognition
2. Overtime
3. Sick Leave
4. Vacation
5. Holidays (Personal Days)
6. Wages
7. CDL Compensation (and Training)
8. Uniform Allowance
9. Insurance
10. Longevity Pay
11. Miscellaneous (Residency)
12. Financial Hardship
13. Duration

The City's position throughout these negotiations has been that, while it might like to treat all employees the same, employees in the various departments are differentially situated. The Street Department, with which the Wastewater Department employees like to compare themselves and whose collective bargaining agreement with the Laborers provides for 3 percent wage increases per year in 2000, 2001 and 2002, has its own proprietary fund and receives some money out of the General Fund. Safety forces are paid out of the General Fund, but the police also have their own dedicated fund for their pensions. The Wastewater Department has its own proprietary fund largely financed by charges for sewer services, estimated to be \$950,000 of the estimated \$1.2 million expected in revenue for 2000. By far and away the largest expenditure category in this fund is debt service at about a half million dollars per year (figures from exhibits attached to the City's pre-hearing statement). The City's over-riding concern for the Wastewater Treatment Department is its ability to meet its debt obligations and maintain employment. It also has to be prepared for capital emergencies

and improvements. The Finance Director testified that it is doubtful whether the Fund will be able to make its debt service payments in five years. The City, she said, has been told it should increase sewer rates 25 percent to make the fund solvent, but has met with the public's resistance to even the 2 percent rate increase effective on January 1, 2001. Even if the City were willing to fund Wastewater Treatment capital projects from the General Fund, that is no long-term solution because the General Fund's balance is declining and the public has resisted tax measures.

The Union, however, points out that it has not had a pay increase for two years and is lacking in benefits enjoyed by organized employees in other departments. It challenges the validity of the figures submitted by the City and believes Council would support the Wastewater Department out of the General Fund if necessary. It offers the City's case flow projection for the Wastewater Fund as of November 30, 2000, which forecasts a cash balance of \$227,832 at year end, some \$20,000 greater than the balance at the beginning of the year (Union Ex. 2). Moreover, it claims that the Wastewater Fund is being used to pay salaries of employees outside the Department and that the City has not proven the wages and benefits sought by the Union, which are only comparable to other represented employees or in keeping with past practice, would place the City in default.

Looking at Wastewater Department budgetary figures submitted with the City's pre-hearing statement for 1998 and 1999 (actual), 2000 (estimated) and 2001 (budgeted), total revenues were estimated to be flat in 2000 at \$1.18 million<sup>1</sup>, growing 3.86% to \$1.23 million

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<sup>1</sup>Cash flow projection shows \$1.27 million (Union Ex. 2)

in 2001. Expenditures were estimated to be growing 11.26% to \$1.17 million in 2000<sup>2</sup>, but only 2.02% to \$1.198 million in 2001. The budget makes provision for an increase in uniform expenditures and a significant increase in health insurance costs. A 12.19% increase in operation salaries was budgeted for 2000, and 5 percent in 2001. The City therefore appears to have planned for additional manpower and higher wages, but presently has one or more vacancies and has not increased bargaining unit wages since January 1999.

## ISSUES

### Issue 1. Union Recognition

City Position. The City proposes that classifications included in the bargaining unit be restricted to those in line with OEPA license titles, namely Laborers, Laboratory Technicians and Operators.

Union Position. The Union seeks to include also the classification of Maintenance Worker/Wastewater, which is the present classification of one of the members of the bargaining unit. It points out that during negotiations the City agreed to red-flag the one existing maintenance worker.

Discussion. The City's desire to retire the Maintenance Worker/Wastewater classification is understandable, but it should do so by attrition.

### Recommendation.

Section 1. The Employer recognizes the Union as the sole and exclusive representative for those employees in the bargaining unit. Whenever used in this Agreement, the term "Bargaining Unit" shall be defined as to all full-time employees in the following classifications:

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<sup>2</sup>\$1.26 million on the cash flow projection (Union Ex. 2), which would not include any wage increase for the bargaining unit but does include a capital outlay of \$163.961.

Laborers  
Laboratory Technicians  
Operators.

Carl L. Vincent will be grandfathered as Maintenance Worker/Wastewater.

**Section 2.** All positions and classifications not specifically established herein as being in the bargaining unit, shall be excluded from the bargaining units, to include any and all part-time employees, Assistant Superintendent, and Superintendent.

**Section 3.** The Employer will furnish the Union with a list of all employees in the classifications covered by this Agreement, indicating the employee's starting date of employment. Such list will be furnished no less than annually and will be supplemented by the names of any new employees hired into the bargaining unit.

## Issue 2. Overtime

**City Position.** The City proposes overtime compensation only for work in excess of forty (40) hours in a work week, arguing that this meets FLSA requirements and simplifies payroll administration.

**Union Position.** The Union seeks overtime compensation in excess of 40 hours in a week or 8 hours in a work day, saying that this is consistent with the Street Department's contract.

**Discussion.** There is no compelling reason for treating Wastewater Treatment employees differently from Street Department employees on this issue.

### **Recommendation.**

**Section 1.** When an employee is required by the Employer to work in excess of forty (40) hours in a work week, or eight (8) hours per day, he shall be entitled to overtime compensation at one and one-half (1-1/2) times the employee's regular hourly rate. The Employer shall approve all requests for overtime prior to scheduled overtime.

## Issue 3. Sick Leave

**City Position.** The City wants the sick leave benefit to be consistent with that enjoyed by most other City employees: a maximum accumulation of 320 hours, disability leave upon

exhaustion of sick leave balance and a wellness bonus of \$500/\$350/\$200 for using only 0/1/2 days of sick leave in a 12-month period.

Union Position. The Union would accept the wellness bonus, but wants an improvement in the crediting of sick leave, which it says should be based on hours worked instead of months, since Wastewater Treatment Facility employees are regularly scheduled for weekend assignments. With respect to sick leave accumulation, it proposes to red-flag the present Maintenance Worker/Wastewater employee at 960 hours and to use the same formula used by the Police Department for sick leave buy-back.

Discussion. On this issue, too, there is no reason for treating Wastewater Department employees differently from most other City employees. However, bargaining unit employees with sick leave balances above the maximum accumulation of 320 should not lose their previously-earned balances as a result. Both parties indicated they were agreeable to a buy-back, citing the police contract as a model. However, it was evident they were not truly in accord as they each referred to different agreements. Sick leave buy-back should wait for another time when the parties' objectives are more coincident. I therefore recommend no buy-back provision in this contract.

Recommendation.

Section 1. Crediting of sick leave. Sick leave shall be earned at the rate of ten (10) hours with pay for each completed month of service. Each full calendar month of service shall be deemed a completed month of service. An employee shall not earn sick leave for any month unless he is in full pay status for at least twenty (20) work days during such month.

Section 2. Accumulation of sick leave. For all full-time employees, unused sick leave shall be cumulative up to one hundred twenty (120) hours per year. The total amount of accumulated sick leave shall not exceed three hundred twenty (320) hours, except that any full-time employee who, on the effective date of this Agreement, has accrued more than three hundred twenty (320) hours of sick leave shall not lose his accrued sick leave as a result of this provision.

For all full-time employees, the City shall acquire and provide both short- and long-term disability insurance (at a cost paid by the City) for non-duty related disabilities. Coverage shall begin sixty (60) days after an employee's first day of employment and continue throughout his employment with the City. The minimum policy coverage shall be "3<sup>rd</sup> day coverage @ 70% payment," or in accordance with the policy of record. If the City is unable to provide this minimum level coverage, this section shall be subject to a re-opener to negotiate the appropriate coverage levels.

Sections 3-10 as per the Street Department Agreement (Union Ex. 1) and the City's proposal of November 20 (Management Ex. 1) including Section 10's Wellness Bonus of \$500/\$350/\$200 for 0/1/2 days of sick leave used in a twelve-month period.

#### Issue 4. Vacation

Union Position. The Union wants the Police Department benefit here as well. It proposes 160 hours after 12 years and eliminating the January 15 notification deadlines, saying that this is difficult for employees and unreasonable on the part of the City. Seven days advance notice should be sufficient with the understanding that requests would be subject to management approval. It points out that on July 14, the parties agreed that "all other requests, submitted after January 15, will be awarded on a first come, first serve basis."

City Position. The City's proposal is for a maximum benefit of 120 hours after 8 years (i.e., no 12-year step), and the existing January 15 request deadline. It points out that no member of the bargaining unit would be affected by the reduction in maximum benefit. It further argues that the benefit reduction is necessary to meet Wastewater Fund debt service payments.

Discussion. While it is true that no employee would be immediately affected by the City's proposal, the Union's proposal is consistent with the Street Department's (the Police Department's contract was not submitted). On the other hand, this is an initial contract and the Union cannot expect to achieve immediately all the benefits that it took other bargaining units multiple rounds of negotiations to achieve. Moreover, only one member of the bargaining unit has enough seniority to benefit from the Union's proposal during the life of the contract. In an

era when the City is having trouble attracting and retaining Wastewater Treatment employees, the limited resources of the City are better spent on benefits shared by all members of the bargaining unit. I therefore recommend the City's offer.

**Recommendation.**

**Section 1.** Each full-time employee shall earn and be entitled to paid vacation in accordance with the following schedule:

<b><u>Length of Service</u></b>	<b><u>Hours</u></b>
After 1 year	40 hours
After 2 years	80 hours
After 3 years	96 hours
After 8 years	120 hours

Sections 2-6 as per Street Department (Union Ex. 1) and Management Ex. 1.

**Issue 5. Holidays**

**City Position.** In addition to eight named holidays, employees receive a number of personal days. The City says they presently receive five and wants to cut them to three to help meet Wastewater Fund debt service payments.

**Union Position.** The Union says they presently receive three and wants to increase them to five, consistent with the Street Department. It further seeks to eliminate the 24-hour advance notice requirement, which it says defeats the purpose of personal days. It does understand all requests would be subject to management approval. It says the City agreed to this proposal on July 21.

**Discussion.** The Fact-Finder is unable to determine from the evidence submitted how many personal days bargaining unit members presently enjoy. Be that as it may, the Union's proposal for 5 benefits all members of the unit and is consistent with what their co-workers in

the Street Department have. I therefore recommend the City's proposal but with 5 personal days instead of 3, exactly as contained in and applied by the Street Department.

Recommendation.

Section 1. All full-time employees shall receive the following paid holidays:

New Years Day  
Martin Luther King Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Day After Thanksgiving Day  
Christmas Day  
Five (5) Personal Days.

Sections 2-4 as per Street Department Agreement (Union Ex. 1) and Management Ex. 1.

Issue 6. Wages

Union Position. The Union proposes four percent wage increases on January 1 in each year of a three-year agreement, retroactive to January 1, 2000. It argues that such increases are necessary to attract and retain employees because of pay scales in surrounding communities. It also wants step increases administered every six months and "appropriate increases for licensing incentives."

City Position. The City offers a restructured wage schedule with approximately 2 percent added at Step 5 and a 2½ % spread between each step in the first year, then 2½ % increases in each of the following two years, but it would administer step increases annually based on the employee's hire date and would not make wages retroactive, but make them effective upon execution of the agreement. It would also grandfather the Maintenance Worker, not offering the classification to any employee in the future. In making this offer, the City takes the position that the Wastewater Fund must be self-supporting. While the City does not disagree

in principle with the Union's position that it should be treated comparably to other employees, the \$500,000 annual debt service of the Wastewater Fund makes such generosity impossible. It simply must work within the Wastewater Department's proprietary fund, not out of the General Fund. Other departments have their own dedicated funds, with the result that all departments are not equal. The City's primary concern has to be debt service and employment of sufficient numbers of employees to operate the plant. It also has to be prepared for capital emergencies and improvements. While the Wastewater Fund has a balance today, it will be close to exhausting it by the end of the next two years and it is doubtful the Fund will be able to make debt service payments in five years. Rates will be increasing on January 1, 2001 and already the public is complaining. The City asks the Fact-Finder to acknowledge the financial position of the Fund and recommend its proposal on wages and other issues with a financial impact.

Discussion. The City's proposal narrows the wage spread by providing greater percentage wage increases at the bottom than at the top. It would thus improve its ability to attract new employees. This is a good time to restructure wages in such a manner because only one of the three employees is at the top of his classification's wage and he can be handled separately without impacting future occupants of the classification since he will be the last member of that classification if these recommendations are adopted. However, the City's proposal inequitably treats the Laborer and Laboratory Technician III classifications by adding only one or two cents at the top with the result that the historic wage relationships between these two classifications and the others is disturbed. Such a disruption needs to be justified and none was provided. Correcting it can be done at no present cost in the case of the Laboratory

Technician III because no one presently holds that license and classification. Correction of the inequity can also be accomplished at very little cost in the case of the Laborer because this is the lowest-paid classification. Moreover, applying 2 percent at the top of each and every classification (except the Maintenance Worker which will be explained below), then applying the 2½ % step spread yields 3.9-4.5% increases at Step 1, not only making the entry wage for each classification more attractive to potential employees, but on average achieving the objective of the Union for current employees in the first year of the agreement. The Maintenance Worker, who is at the top of his classification and is therefore ineligible for step increases, should receive 3% as his co-workers in the Street Department did, instead of 2%.

The Fact-Finder is unable to calculate the true total cost of this recommendation because insufficient information was presented to allow a complete analysis. However, looking only at Laborer Step 1, Laboratory Technician I Step 1, and the Maintenance Worker, and using a 2080-hour work year, the City's proposal would add \$1,955 before overtime, fringe benefits, payroll taxes and movement on the steps, whereas the Fact-Finder's recommendation would add \$2,538, for a difference of \$583 between the recommendation and the City's scales, a small price to pay if it yields a more stable department, reducing search, selection and on-job training costs. For the following two years, noting the Department has budgeted an additional 5 percent for operational salaries in 2001 and projected 4.7% growth in the Fund's cash balance for 2000, I also recommend 3 percent annual increases in keeping with the Street Department's 3 percent annual increases. I also recommend semi-annual reviews. Reviews do not necessarily result in promotion to the next higher step, but performing them semi-annually will let employees know where they stand. The City has not shown a reason to

depart from this practice. Those whose performance does not warrant a step increase at least once a year will still keep up with inflation because of the recommended general wage increase.

Recommendation.

2000

Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Laborer	8.74	8.96	9.19	9.43	9.67
Operator I	10.89	11.17	11.45	11.75	12.05
Operator II	12.64	12.96	13.29	13.63	13.98
Operator III	14.74	15.12	15.50	15.90	16.31
Lab Tech I	10.89	11.17	11.45	11.75	12.05
Lab Tech II	12.64	12.96	13.29	13.63	13.98
Lab Tech III	14.74	15.12	15.50	15.90	16.31
Maintenance					14.70

2001

Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Laborer	9.00	9.23	9.47	9.71	9.96
Operator I	11.21	11.50	11.79	12.10	12.41
Operator II	13.02	13.35	13.69	14.04	14.40
Operator III	15.18	15.57	15.97	16.38	16.80
Lab Tech I	11.21	11.50	11.79	12.10	12.41
Lab Tech II	13.02	13.35	13.69	14.04	14.40
Lab Tech III	15.18	15.57	15.97	16.38	16.80
Maintenance					15.14

2002

<u>Classification</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
Laborer	9.27	9.51	9.75	10.00	10.26
Operator I	11.55	11.85	12.15	12.46	12.78
Operator II	13.41	13.75	14.10	14.46	14.84
Operator III	15.64	16.04	16.45	16.87	17.30
Lab Tech I	11.55	11.85	12.15	12.46	12.78
Lab Tech II	13.41	13.75	14.10	14.46	14.84
Lab Tech III	15.64	16.04	16.45	16.87	17.30
Maintenance					15.60

Issue 7. CDL Compensation

Union Position. The Union proposes that this article include two benefits and that it be named to reflect that. For Section 1, it proposes that there be \$200 compensation for obtaining and maintaining a Commercial Driver's License. It says this is a 24-hours per day, seven days a week responsibility. Further, an increase from \$100 to \$200 is justified by the Street Department contract. For Section 2, the Union wants compensation plus fees and any assorted costs for attending EPA-mandated classes and seminars that enhance the employee's ability to perform his duties. The latter would be with prior approval of the Supervisor and not take effect until January 1, 2001. In its view, being in compliance with EPA regulations and staying current with all aspects of the job should not be at the expense of the employee. It would rename the article "CDL and Training Compensation" to better reflect the scope of the benefit.

City Position. The City is prepared to pay each full-time employee \$100 on March 31 of each year for maintaining a valid CDL during the previous calendar year, but resists paying for any other training costs, including obtaining the CDL, again pleading Wastewater Fund debt service payments.

Discussion. CDL compensation should mirror the Street Department's. I recommend no contractual provision for other compensated training or for obtaining the CDL at this time. The City needs to devote its funds to improving the wage scale to attract and retain employees for the Wastewater Department.

Recommendation.

**Section 1.** The City will pay each full-time employee \$200, payable by March 31<sup>st</sup> each year for maintaining a valid Commercial Driver's License during the previous twelve month period (January through December). The City is not responsible for the cost of each employee obtaining a Commercial Driver's License.

#### Issue 8. Uniform Allowance

Union Position. The Union proposes to increase the current uniform allowance from \$75 to \$100, saying that this was agreed to on August 8 and that it is consistent with the Street Department's contract. It would also renumber Section 2 (method of payment) to Section 3 and add a new Section 2 requiring the City to provide safety equipment consistent with the duties of the various job classifications, including hard hats, rubber gloves, safety glasses, rain gear and safety harnesses.

City Position. The City did not make a presentation with respect to this article, but its statement prepared for the November 10 meeting proposes initial provision of 11 sets of work clothes and a \$75 annual allowance for each full-time employee.

Discussion. The Union's request for an additional \$25 on the annual uniform allowance is modest and reasonable in light of the Street Department's contract. However, I recommend no other enhancements at this time. The City needs to devote its funds to improving the wage scale to attract and retain employees for the Wastewater Department.

Recommendation.

Section 1. Full-time employees shall receive eleven (11) sets of work clothes; three (3) coveralls; and a pair of steel-toed work shoes, supplied by the City, and a uniform allowance of one hundred dollars (\$100.00) per year for uniforms. Said amount shall be paid in cash to the employee for purchases during the year, to be used for purchases of new uniforms, or replacement of damaged uniforms.

Section. Said allowances will be paid to the employee in a separate check on September 1<sup>st</sup> of each contract year.

Issue 9. Insurance

Union Position. The Union proposes to mirror the Street Department's contract in every way including capping the City's contribution for hospitalization and major medical at \$550/month and \$250/month for family and single coverage respectively. Again, it asserts that the City already agreed to this.

City Position. The City's proposal also mirrors the Street Department's, but with lower caps: \$475/175 in 2000 and \$500/200 in 2001 and 2002. The lower caps are justified, it says, to allow for funding policy cost increases and debt service payments.

Discussion. Health insurance benefits should be uniform across a city's bargaining units. Moreover, the City has planned for increased insurance costs in its budgeting.

Recommendation.

All sections per the Street Department Agreement (Union Ex. 1), with caps set at \$550/month (family), \$250/month (single) for each year of the Agreement.

## Issue 10. Longevity Pay

Union Position. The Union seeks the same benefit as enjoyed by the Street Department: \$250 for 5-9 years of service, \$500 for 10-14 years, and \$750 for 15 years or more. It points out that, like vacation, sick leave, and union recognition, this affects only one individual and charges the City with conducting a vendetta against that person in its refusal to agree to the Union's proposals on these issues.

City Position. The City objects to this benefit, but submits that its objection is, like all others, financially based, and not to single out a given individual.

Discussion. The Fact-Finder is unable to determine whether Wastewater Department employees are currently eligible for longevity payments. In any case, only one has enough seniority to be affected and he is ineligible for step increases. Moreover, the cost to provide longevity pay for this employee's ten years of service is low. Thus, while I do not recommend the provision requested by the Union, I do recommend that the Maintenance Worker be red-circled at \$500 per year.

### Recommendation.

Section 1. All full-time Maintenance Workers shall receive longevity pay based on their continuous length of service with the City. The amounts shall be in accordance with the following schedule:

<u>Years of Service</u>	<u>Payment</u>
10 or more years	\$500.00 per year

## Issue 11. Miscellaneous (Residency)

Union Position. The Union proposes to delete the requirement that employees live within a ten-mile radius of the City limits. However, it points out that it did agree to City Manager-approved exceptions to current policy.

City Position. The City's proposal includes the provision sought by the Union.

Discussion. In light of the reasonableness of the compromise and the parties' apparent agreement, I recommend the City's proposal as set forth in its November 10 statement (Management Ex. 1).

Recommendation.

**Section 2.** Effective January 1, 2000, all current full-time employees within the bargaining units, shall reside within a ten (10) mile radius of the City limits. All new employees, hired after January 1, 1997, shall reside within the City limits of the City of Geneva. In the event a new hire is not a resident of the City of Geneva upon hiring, said employee shall, as a condition of employment, reside within the City of Geneva no later than one (1) year from the employee's date of hire as a full-time employee. Failure to do so will result in termination of employment. Exceptions to this requirement may be issued by the City Manager, in written form.

The address reported to the Finance Department shall be the official residence address of the employee. Exceptions to the requirement may be established with an agreement between the Union and City.

Issue 12. Financial Hardship

City Position. The City proposes that if and when it is unable to make its debt service payment from the Wastewater Fund, that all contractual benefits be frozen. As protection for the Union, it would have its financial position confirmed by an independent auditor selected by the City. This provision is necessary, it says, to avoid layoffs in the event it is unable to make scheduled payments.

Union Position. The Union rejects the City's proposal, stating the City has failed to prove the Union-proposed benefits would cause the City to default. Moreover, the City could manipulate its finances to produce the outcome it needs to invoke this provision.

Discussion. The broad contingency proposed by the City, which came as a last-ditch effort to achieve a negotiated settlement without Fact-Finder recommendations, makes the employees vulnerable to events beyond their control. Unless the City is willing to make the Union a full

partner in managing the Department, which itself cannot be recommended given the current relationship between the parties, the proposal cannot be recommended.

Recommendation. No provision.

#### Issue 13. Duration

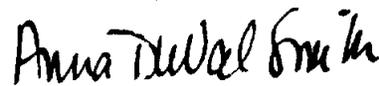
Union Position. The Union seeks a three-year agreement retroactive to January 1, 2000, expiring on December 31, 2002, the same as the Street Department.

City Position. The City, too, wants a three-year agreement, but would make it effective on the day it is executed, expiring three years hence. Instead of retroactivity, it offers a \$500 signing bonus.

Discussion. The Wastewater Department employees have been without a pay increase, step or general, since January 1999. While a signing bonus has the advantage of simplicity, what is offered does not come close to the value of the recommended wage increase for 2000. I therefore recommend the Union's proposal for a three-year agreement commencing January 1, 2000, expiring December 31, 2002, with full retroactivity on wages and other economic benefits.

Recommendation. All sections as per the Street Department agreement (Union Ex. 1).

Respectfully submitted,



Anna DuVal Smith, Ph.D.  
Fact-Finder

Cuyahoga County, Ohio  
December 21, 2000

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing Findings and Recommendations of Fact-Finder was served on Kenny Yuko, Laborers Local 860, 4220 Prospect Avenue, Cleveland, Ohio 44103, and Craig Zins, City Manager's Office, 44 North Forest Street, Geneva, Ohio 44041, by express mail on the 22<sup>nd</sup> day of December 2000. A true and accurate copy of the foregoing Findings and Recommendations of Fact-Finder was served on the State Employment Relations Board at 65 East State Street, Columbus, Ohio 43215-5213 by first class U. S. mail on the 22<sup>nd</sup> day of December, 2000.

*Anna DuVal Smith*

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Anna DuVal Smith, Ph.D.  
Fact-Finder