

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD(S.E.R.B.)

STATE EMPLOYMENT  
RELATIONS BOARD

FACTFINDING

2002 DEC -9 A 10: 26

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CITY OF TORONTO

) CASE NO. 02-MED-05-0554

AND

) HEARING: NOVEMBER 14, 2002

) REPORT: DECEMBER 4, 2002

AMERICAN FEDERATION OF STATE,  
COUNTY and MUNICIPAL EMPLOYEES  
OHIO COUNCIL 8  
AFSCME  
AFL-CIO

=====

APPEARANCES

UNION

JALADAH ASLAM, STAFF REPRESENTATIVE, OHIO COUNCIL 8  
ALEX JONES  
JOHN E. PROSSE  
PETE WARREN

EMPLOYER

MICHAEL L. SEYER, SENIOR CONSULTANT, CLEMANS-NELSON & ASSOCIATES,  
INC.  
THOMAS C. WILSON  
MIKE CENANSKY

## BACKGROUND

The City of Toronto is located in northeastern Ohio in Jefferson County. It is about six miles north of Steubenville and twenty miles south of East Liverpool and sits on the west bank of the Ohio River. Based upon the 2000 CENSUS the population was 5,676. It has an elected Mayor and an elected City Council.

The City is a Party to three (3) COLLECTIVE BARGAINING AGREEMENTS. ONE IS WITH THE FRATERNAL ORDER OF POLICE, (FOP), FORT STEUBEN NO. 1; ANOTHER IS WITH THE CITY AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) Local No. 2229 AND THIRD IS BETWEEN THE CITY AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), COUNCIL 8, WHICH IS FROM AUGUST 1, 1999 THROUGH JULY 31, 2002.

The CITY and AFSCME began bargaining prior to the expiration of the LABOR AGREEMENT. On July 1, 2002 Bureau of Mediation Administrator Dale A. Zimmer wrote to the Undersigned advising he had been appointed as Factfinder under the OHIO REVISED CODE (O.R.C.), Section 4117.14(C)(3). Under the CODE, the Factfinder's Report was due July 15, 2002 unless the Parties extended bargaining. The Parties extended bargaining under Ohio Administrative Code Rule 4117-9-05(G). During bargaining sessions the City and AFSCME reached agreement on the following provisions:

- ARTICLE 15 - HOURS OF WORK/OVERTIME
- ARTICLE 29 - TUITION REIMBURSEMENT
- ARTICLE 30 - SICK LEAVE BONUS
- ARTICLE 32 - GENERAL PROVISIONS (LICENSE PAYMENT)
- ARTICLE 35 - SHIFT DIFFERENTIAL
- ARTICLE 37 - WAGES
- ARTICLE 42 - DURATION

Subsequently AFSCME and the City requested a Mediation session. A Mediation Hearing was held October 21, 2002. Proposals and counter proposals were made but no agreement was reached. It was agreed to schedule a Factfinding Hearing November 14, 2002.

### DISCUSSION

Since significant progress was made on a tentative basis October 21 the first determination to be made was what Issues remained. The Parties advised that the outstanding Issues "on the table" October 21st were still on the table. They were:

NEW ARTICLE - PEOPLE Deduction

ARTICLE 24 - CONVERSION OF UNUSED SICK LEAVE

ARTICLE 38 - HOSPITALIZATION

SIGNING BONUS

HAZARD DUTY COMPENSATION

WAGE SCALE/EQUITY ADJUSTMENTS

Relative to the above Issues the Union's positions are:

PEOPLE Deduction

PEOPLE is an acronym for Public Employees Organized to Promote Legislative Equality. The Union proposed a voluntary check-off for bargaining unit members. It stressed the Program is voluntary and the amount of work involved is minimal to effect the check-off.

ARTICLE 24 - CONVERSION OF UNUSED SICK LEAVE

The current CBA provides upon retirement after ten years of service an employee may cash-in 50 per cent of his/her unused Sick Leave, to a maximum of 55 (fifty five) days. The limit of accrual of Sick Leave days for the purpose of converting to cash is currently one hundred and ten (110).

AFSCME proposed that there be no cap on the number of days which can be accrued for the purpose of converting unused Sick Leave days to cash upon retirement. It kept the 50 per cent multiplier. The Union emphasized there is cap on the accrual days in the City's LABOR AGREEMENT with the FOP.

ARTICLE 38 - HOSPITALIZATION

The current CONTRACT provides the following for Vision and Hearing.

VISION I PLAN	-----	\$6.75	per mo. per employee
HEARING PLAN	-----	.50	per mo. per employee
TOTAL	-----	<u>\$7.25</u>	

The Union proposed the following:

VISION II PLAN	-----	\$12.00
HEARING PLAN		.50
		<u>\$12.50</u>

SIGNING BONUS

The current CBA (p. 41) includes a LETTER OF UNDER-

STANDING providing for a Signing Bonus of \$300.00 (three hundred dollars. The Union proposes this be increased to \$400.00 (four hundred dollars).

HAZARD DUTY COMPENSATION (New Article)

The Union proposed that each bargaining unit member regularly exposed to "hazardous chemicals and working conditions" receive \$350.00 (three hundred and fifty dollars) per year.

WAGE SCALE/EQUITY ADJUSTMENTS

"The Union has proposed the following adjustments to the listed positions.

Utilities Office:

Clerk - An additional \$1.23 per pay bringing the hourly amount up to \$10.00 before raise is implemented.

Water Department

Operator - An additional \$.50 per hour bringing the total up to \$12.38 before raise is implemented.

Chief Operator - An additional \$25 per hour for a total of \$12.85 before raise is implemented."

"Union Position Statement"

The City reacted to the Union's PROPOSALS as shown below.

PEOPLE Deduction (New ARTICLE)

The Employer was not convinced this Proposal should be considered.

ARTICLE 24 - CONVERSION OF UNUSED SICK LEAVE

Management's response is to maintain the current language. It is not persuaded that the FOP CONTRACT should serve as a basis for having no cap on the number of accrual days.

ARTICLE 38 - HOSPITALIZATION

The Employer does not agree to any increase in the VISION PLAN. It stresses that the City pays 100 (one hundred) per cent of the Health Insurance Premium; up to a maximum of \$753.66 per month for Family Coverage and \$295.49 per month for Single Coverage.

SIGNING BONUS

The City proposes a one-time payment of \$300.00 (three hundred dollars) for each unit member.

HAZARD DUTY COMPENSATION (New Article)

Management made a counter proposal of \$250.00 for unit members regularly exposed to hazardous chemicals and working conditions

WAGE SCALE/EQUITY ADJUSTMENTS

Management noted it had previously agreed to a 3 per cent (three) increase for all employees. It offered:

"Clerk	Additional \$73 per hr. - 8.3% increase
Operator	Additional .20 per hr. - 1.7% increase
Chief Operator	Additional .10 per hr. - .07% increase

When combined with the general wage increase previously agreed to, the individual would receive a first year increase between 3.7% to 11.3%."

SUMMARY OF ISSUES

PEOPLE Deduction

The Union held fast to its position that the Employer approve the voluntary PEOPLE check-off. It noted this Fund was a "Union matter," and it should not make any difference to Management how many employees volunteered.

Management stated it would agree to the new provision if at least 50 per cent sign-up. It added; "As approval from the State Auditor's office is necessary, such deductions would become effective the second year of the Agreement." The City revised its proposal. It maintained its 50 per cent requirement and added a "hold harmless clause."

ARTICLE 24 - CONVERSION OF UNUSED SICK LEAVE

At different stages both Parties altered their positions. However, in bargaining early-on they tied ARTICLE 24 to the SIGNING BONUS which complicated reaching agreement on both provisions. Again AFSCME stressed the "no limit accrual" in the FOP AGREEMENT but it did amend its final offer which appears below.

1st Year	-	65 days
2nd Year	-	70 days
3rd Year	-	75 days

Management reviewed the potential costs to the City based upon the "no limit accrual clause" in the FOP CONTRACT and the

potential costs of agreeing to any increase beyond the current cap of accrual of 110 days and the cash-in of 50 per cent of those days, capped at 55 days. It noted there is a "cap" in the LABOR AGREEMENT with the IAFF.

#### ARTICLE 38 - HOSPITALIZATION

The Union's final proposal provides \$12.50 per month for the VISION II PLAN and \$26.00 (twenty six) per month per employee for a new DENTAL II PLAN. The City noted the additional costs (over \$5,000.00 a year) as well as stressing that the CBA'S WITH THE FOP AND THE IAFF do not contain a Dental Plan.

#### SIGNING BONUS

The City held at \$300.00 and AFSCME remained at \$400.00 as its final proposal.

#### HAZARD DUTY COMPENSATION

The Union maintained its proposal of \$350.00 per year and Management remained at \$250.00 Both agreed any such compensation will be limited to employees regularly exposed "to hazardous chemicals and working conditions."

#### WAGE SCALE/EQUITY ADJUSTMENTS

Considerable discussion took place and both Parties were flexible to a point. Compression of wages was discussed, noting the substantial increase sought by AFSCME for Clerks (14+ per cent). The fact the Parties had already agreed to a 3 per

cent general increase was stressed by Management. In addition, the Union and Management agreed the general increase would be calculated after adding the hourly wage increases for Clerks, Operators and Chief Operators. The Union maintained its proposal of \$1.23 per hour for CLERKS; moved to \$.40 per hour for OPERATORS and \$.20 per hour for CHIEF OPERATORS. The City held at \$.73 for CLERKS: \$.20 for OPERATORS and \$.10 for CHIEF OPERATORS.

#### COMMENTARY

The Union stressed primarily the relationship of AFSCME'S LABOR AGREEMENT to the FOP CONTRACT, particularly the conversion of unused Sick Leave Days to cash upon retirement. It also noted under the IAFF AGREEMENT employees can cash-in up to sixty (60) unused Sick Leave Days. The Union did not present comparables included in other AFSCME CBA'S in northeastern Ohio.

The City entered the following Documents for support:

Collective Bargaining Agreement -

CITY OF TORONTO and the FRATERNAL ORDER OF POLICE,  
FORT STEUBEN LODGE NO. 1, November 1, 2001 to October 31, 2004, pages 30 and 38.

Collective Bargaining Agreement -

THE CITY OF TORONTO -AND- LOCAL 2229 - INTERNATIONAL  
ASSOCIATION OF FIREFIGHTERS AFL-CIO for the period  
January 1, 2002 through December 31, 2004, pages 1,  
6 and 11.

Documents, City of Toronto

- THE GEM CITY - Year 2002 Budget (TAB "H")
- Exhibit I - GENERAL FUND, pages 1, 3 and 5.
- Exhibit II - POLICE PENSION FUND  
POLICE RECREATION FUND  
FIRE PENSION FUND  
FIRE TRUCK LEVY FUND
- Exhibit III - INDIVIDUAL FUND REPORT, two (2) pages
- Exhibit IV - STATEMENT OF PERMANENT IMPROVEMENTS (TAB "H")
- TAB "I" - COST OF GENERAL WAGE INCREASE and COST OF INCREASE TO SPECIAL LICENSE PAYMENT
- TAB "J" - CURRENT VS. PROPOSED COST OF HOSPITALIZATION
- TAB "K" - OHIO COUNTY PROFILES-JEFFERSON COUNTY  
Four (4) pages
- TAB "L" - MID-ATLANTIC INFORMATION OFFICE CPI ANNOUNCEMENT - September, 2000

CONCLUSIONS

The City did not "plead poverty," but it does contend its ability to pay has been materially affected by a number of circumstances, the most significant being a shrinking tax base.

Collectively the Employer's Exhibits (Data unchallenged) show a significant decline in the City's tax revenue. Contributing factors are:

- a. A city population of 5,676 (five thousand six hundred and seventy six) in 2000 compared to its population of 6,127 (six thousand one hundred and twenty seven) in 1990; a loss of 451 (four hundred and fifty one) residents or 7.36 per cent.
- b. Reduced employment at the TIMKEN Corporation including the recent layoff of seventy two (72) employees.

- c. The closing of Hancock Manufacturing, which contributed a total of \$187,800 (one hundred eighty seven thousand and eight hundred) to the City's Budget during 1999, 2000 and 2001.

Expenditures include:

- a. Increased landfill fees which will increase costs about \$20,000 (twenty thousand) per year based upon past averages of usage.
- b. Increase in Health Care coverage of about \$34,000 (thirty four thousand).
- c. "The City has previously agreed to general wage increases, upgrades of special license payments, increases in shift differentials, tuition reimbursement, and Sick Leave bonuses. All these benefits have a direct economic impact on the general fund. Any additional increase to an already strained budget will limit the City's ability to continue providing necessary and required services to the citizens and taxpayers of the City." EMPLOYER'S OPENING STATEMENT.

The evidence leaves no doubt that the ARTICLES previously agreed upon will result in significant cost increases to the City's Budget. In spite of this Management was not inflexible in reacting to the Union's remaining proposals.

The FOP CONTRACT was effective November 1, 2001 and the IAFF AGREEMENT was effective January 1, 2002. The AFSCME CONTRACT expired July 31, 2002. Here the Union bargained vigorously for no cap in the accrual of Sick Leave Days contending its membership should have the same benefit as the "Police."

As shown in the preceding paragraph chronologically AFSCME is "last in line" negotiating its AGREEMENT. In "good times" being "last" is usually an advantage. In "bad" times it is not! The FOP CONTRACT (p. 38) and the IAFF AGREEMENT (p. 11)

show the City was represented by a different bargaining team in those negotiations.

Credible evidence clearly shows that the City's ability to improve its financial situation in the near future is extremely remote and its ability to pay is being stretched to the limit.

### RECOMMENDATIONS

#### PEOPLE Deduction (New Provision)

"Upon receipt of PEOPLE Deduction Cards voluntarily signed and submitted by bargaining unit members the Employer will authorize payroll deductions for such contributions. Such deductions shall begin within thirty (30) calendar days of approval of the CONTRACT.

The Union agrees that it will indemnify and hold harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the Funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union."

### ARTICLE 24 - CONVERSION OF UNUSED SICK LEAVE

Section 1. "An employee who is both eligible for and elects to take his public employee retirement benefits shall be entitled to convert accrued but unused leave to a cash payment on the following basis:

An employee may receive, after completion of ten (10) years of continuous service with the City of Toronto, a cash payment in the amount of one (1) day's pay for each two (2) day's of accrued but unused sick leave at the time of retirement. The maximum payment under this provision shall not exceed **120** days of pay. At no time will any employee receive more than **60** days sick leave at time of retirement. For the purpose of this provision, retirement shall be considered that criteria established for retirement from active service with the City at the time of separation under Public Employees Retirement System (PERS)." (p. 22, 1999-2002 AGREEMENT)

### ARTICLE 38 - HOSPITALIZATION

Section 1. Maintain current language.

Section 2. Maintain current language.

Section 3. Maintain current language as shown below.

"The City agrees to pay the sum of \$7.25 per employee per month towards the premiums for Vision and Hearing Aid insurance coverage under the Ohio AFSCME Care Plan." (pp. 27-28, 1999-2002 AGREEMENT)

### SIGNING BONUS

(Maintain current language as quoted below.)

#### Letter of Understanding

"The Employer agrees to provide a one (1) time lump sum payment of \$300.00 to each bargaining unit employee, payable upon the execution of this Agreement, in accordance with the procedures of the Auditor's office.

Upon the receipt of this payment to the above referenced individuals, this document shall become null and void." (p. 41, 1999-2002 AGREEMENT)

**HAZARDOUS DUTY COMPENSATION--(New Provision)**

"Non-office bargaining unit employees exposed to hazardous chemicals and/or working conditions in the performance of their normal duties on a regular basis shall receive an annual lump sum payment of two hundred and fifty dollars (\$250.00) per eligible employee. The Employer shall determine the employees who qualify for such payment."

**WAGE SCALE/EQUITY ADJUSTMENTS**

Clerk-	Additional \$.73 per hour
Operator-	Additional \$.25 per hour
Chief Operator-	Additional \$.25 per hour

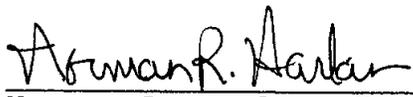
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The Union and the City have worked together successfully for a number of years. AFSCME has successfully negotiated a number of provisions over a relatively brief period of years which sometimes take decades, such as SICK LEAVE BONUS, TUITION REIMBURSEMENT, PERSONAL DAYS, SEVERANCE PAY, CLOTHING/UNIFORM ALLOWANCE, AND SIGNING BONUS. In addition, ARTICLE 38 - HOSPITALIZATION - provides that the Employer will contribute "one hundred percent (100%) of the cost of the premium for single and family hospitalization and major medical plan insurance coverage (central benefits \$753.66) per month for family coverage and (\$295.49) per month for single coverage as it is currently provided." (underlining emphasis added)

To address and cope with the escalating health care costs which have been rampant the past ten-to-fifteen years, in particular, Employers often bargain either to share the premium with the Employee or to establish a substantial front-end deductible, or both. In the face of this, AFSCME has maintained

the one hundred percent language, which is a remarkable accomplishment, as well as negotiating raises and new ARTICLES.

The evidence is irrefutable that the City is an extremely sensitive financial situation with no prospects of increasing revenue. The Factfinder strongly recommends that the REPORT be approved by the Parties.



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Norman R. Harlan, Factfinder

Steubenville, Ohio

December 4, 2002