

HAND DELIVERED

STATE EMPLOYMENT
RELATIONS BOARD
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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of the Negotiations Between:

Columbus Municipal Association of Governmental Employees,
Communication Workers of America,
Local 4502 : CASE NO. 02 MED 06-0610
Margaret Nancy Johnson
Fact-Finder
:
and RECOMMENDATIONS
:
The City of Columbus :

Appearances

For the City:
Robert E. Thornton,
Chief Labor Negotiator

For the Union:
Carnell B. Felton, Sr.
Local President

In accordance with Ohio Revised Code Section 4117.14(C)(3), the State Employment Relations Board appointed Margaret Nancy Johnson to serve as fact finder in the above referenced bargaining impasse. In an attempt to mediate contract provisions upon which the parties had been unable to agree, the fact-finder met with the parties on September 26, 2002, in a conference room at a Training Facility maintained by the City in Columbus, Ohio. Having failed to resolve the outstanding issues, the parties proceeded to fact finding on October 2, 2002, in the same conference room. Prior to fact-finding both parties timely submitted pre-hearing position statements for the review of the fact-finder. At the scheduled hearing the fact-finder received documentary evidence into the record and heard testimony and arguments on the respective positions of the parties. In accordance with the statutory provisions of the Collective Bargaining Act, the fact-finder now issues her report setting forth recommendations on those issues on which the parties had not heretofore been able to reach consensus.

Background

Historical information pertaining to the establishment and certification of this relatively new bargaining unit was elicited by the parties. While it was actually formed in 1990, the State Employment Relations Board (hereinafter "SERB") did not certify Columbus Municipal Association of Governmental Employees (hereinafter "Union" or "CMAGE/CWA") as a bargaining agent until 1994, and the first Collective Bargaining Agreement was not negotiated by the parties until that year. Since then, the parties have negotiated two successor contracts.

Consisting of approximately one thousand and three hundred members (1,300), the unit is multi-departmental in that it is comprised of employees from almost every department within the City of Columbus (hereinafter "City"), including technical and professional employees. It is

further unique in that it encompasses two classes of employees: “exempt” or mid-management employees holding positions of authority over employees represented by other bargaining agents, as well as employees subject to the Fair Labor Standards Act for purposes of overtime compensation.

The bargaining Agreement expired on August 23, 2002, and the parties are currently operating under the terms of the expired contract. While an attempt to negotiate a successor contract has resulted in a tentative Agreement, the parties remain at impasse on five (5) issues. For the purpose of discussion and internal comparison, reference is made both to other collective bargaining units with which the City negotiates, including FOP, AFSCME, and IAFF units, as well as those City administrators whose salaries are set by Council ordinance under a Management Compensation Plan (“MCP”).

Issues

Issues on which the parties remain at impasse include the following: Fair Share Fees, Union Representation, Leaves of Absence, Salaries and Compensation, and Insurance.

Criteria

In submitting the recommendations which follow, the fact-finder has given consideration to those factors relied upon by neutrals working with parties at impasse and as outlined in the Ohio Revised Code, Section 4117.14(G)(7).

Position of the Parties

I Fair Share Fees

The Union argues that the Collective Bargaining Agreements for all other units with which the City negotiates presently include Fair Share Fee language. As CMAGE/CWA is required to represent all employees in the bargaining unit and as all employees benefit from such representation, the Union contends fair share fee language is reasonable and appropriate.

On the other hand, since one-half of the unit declines membership in the Union, the City resists obliging them to pay an involuntary contribution that will be the equivalent of union dues. The Collective Bargaining Act does not require an employer to accede to a fair share fee and the City opposes the same in this instance.

II Union Representation

By restricting representation to the President and Vice-President, current contract language inhibits the ability of the Union to process grievances and handle investigatory interviews within departments throughout the City. To provide greater access to the membership, the Union proposes language that will enable representatives to render assistance in the department they represent regardless of location. The Union contends that it ought to be afforded the same opportunity to represent that is presently granted to other unions. In the absence of the ability to respond to membership needs when or where they arise, the Union is liable to charges of unfair representation.

In opposition to the Union proposal, the City maintains that the newly secured full-time release of the President and Vice-President as well as local affiliation with CWA ought to satisfy the

needs of the Union to represent its members. At the next negotiations, the parties will be better situated to assess the adequacy of the services provided by the Union to unit membership. Lacking a compelling justification for the release of additional representatives, the language proposed by the Union creates a burden on City operations at the expense of the taxpayer.

III Leaves of Absence

Through negotiations, the parties have agreed upon changes to the Leave provisions including Military Leave and Transitional Work provisions of the Collective Bargaining Agreement. In addition to these, the Union proposes extensive modification to the Injury Leave language comparable to the benefits currently provided to the FOP and the IAFF bargaining units. Opposing the Injury Leave proposals, the City contends there is no compelling justification for the modifications proposed by the Union. The City argues the injury leave needs of this bargaining unit are substantially different from those of the safety forces.

Principally, however, the controversy concerns current contract language providing a reopener in the event the General Assembly enacts legislation impacting on the Injury Leave or Workers' Compensation Programs. Because the General Assembly has enacted such legislation, the City proposes the continuation of the current language with some modification. The Union, however, seeks to eliminate the reopener as there is no need for such language. It is the position of the Union that having failed to reopen the contract at the time the General Assembly enacted language that permitted municipalities the right to self-insure, the City ought to negotiate the issue at the present time rather than at a later date when the City elects to self-insure. The Union maintains that the potential loss of injury leave for unit members should be addressed now.

IV Salaries and Compensation

A. City

The proposal of the City relative to compensation includes an extensive restructuring of the existing pay plan. Using a labor market study performed throughout July and August, 2002, by the Watson-Wyatt Company, a consulting firm employed by the City to evaluate current job classifications, the City seeks to assign bargaining unit classifications to pay grades ascertained by reference to the Watson Wyatt Report. The pay tables would be restructured based upon a mid-point for each classification equal to the average labor market valuation for the job classification, with minimum and maximum hourly wages measured from the mid-point. Bargaining unit members below the midpoint would be placed on the newly structured pay table at the appropriate level based upon experience in the job classification as well as the standard criteria of skill, ability and knowledge. Placement on the table would be done pursuant to negotiation with the Union.

According to the plan proposed by the City all unit employees would have an opportunity for an annual performance increase. Presently, the bargaining unit includes employees having differing advancement and merit pay opportunities, with most members either "stepped-out" or in job classifications in which opportunity for a merit review occurs biennially rather than annually. By restructuring the pay plan, the City is endeavoring to create a more equitable and uniform method for job advancement. Pursuant to the city plan, all unit employees would have the opportunity for an annual merit review. Opposing any change in the service credit provisions of the Agreement as proposed by the Union, the City contends that a move to the market based pay

structure would obviate any need for further types of service credit.

As part of this plan, the City also proposes an across the board wage increase that is equal to the percent increase in the Consumer Price Index, not to exceed 4 percent (4%) annually. Using the CPI, the wage increase for the first year of the Agreement would be 1.5%. In addition to the salary restructure, the City proposes increasing the shift differential for D level employees on the second shift to \$.52, and for third and rotating shift employees to \$.60 per hour.

The rationale for the proposals of the City is both economic and practical. Current fiscal data includes the fact that for the first time in nearly forty years, the City is receiving less income tax revenue from one year to the next. This decline has a significant bearing on the ability of the City to finance pay increases for bargaining unit members. Through testimony and documentation the Director of Finance paints a startling financial picture which the city cannot ignore. As the market study referenced above indicates that unit employees are already competitively paid, there is no justification for the percentage increase now sought by the Union.

In entering into negotiations with this Union, the City was led to believe that a change in the pay plan to enable greater employee advancement was a mutual goal and that the method of doing so would be market driven. With this understanding, the city engaged in an extensive market study. The refusal of the Union to now consider what it had sought from the City is incomprehensible to management.

B. Union

The Union seeks pay increases of 8%, 7% and 6% for each year of a three year contract. These percentages are not arbitrary, but are based upon internal equity. This bargaining unit has witnessed wage increases implemented by the City both for other bargaining units and also for Management Compensation Plan employees which far exceed the increases the city has previously granted and now proposes for this Unit. Indeed, members of this bargaining unit supervise employees who have been granted a twelve percent (12%) increase over the next three years. Effective June 1, 2003, the IAFF will receive a six percent (6%) across the board increase. From April 2001 to April 2002, MCP employees received merit pay increases averaging 15%. In May, 2002, MCP employees received a 4% increase and another 4% is scheduled for 2003. Such inequities are intolerable and must be corrected.

The pay plan proposed by the City was not a mutual undertaking as suggested by the City. Although unit employees were supposed to serve on a committee studying implementation of the plan, after the benchmark positions were identified, the Committee had no further involvement in the study. The City cannot expect the Union to adopt a pay plan without ascertaining the impact of the plan on the individuals involved. Having already been through this process with the City during the Hay study, which was included in the prior Agreement but never implemented, the Union is skeptical of the city's intent. Although it holds out the carrot of annual merit pay, the Union is well aware that the issue may be moot due to the financial issues now facing the City. Moreover, the City's failure to previously provide merit pay is presently the issue of an unfair labor charge. Since merit pay is discretionary and subjective, there is simply no guarantee employees will ever receive the increases now proposed by the City.

In addition to across the board increases which will alleviate prior bargaining inconsistencies and secure internal comparability, the Union proposes several compensation adjustments. The Union seeks a modification to Section 17.4 of the Agreement so that all employees working out

of classification shall receive an increase of 4% above the current rate for each hour worked in the higher classification, after completing at least one full workday therein. At present, the City utilizes the exempt class employees for temporary out of classification assignments so as to circumvent hiring and to pay for services at the lower rate. The Union proposal is intended to rectify this practice.

For second shift employees and third and rotating shift employees, the union proposes a shift differential increase of \$.60 per hour and \$.75 per hour, respectively, with a \$.15 increase in each of the subsequent two contract years. At present CMAGE/CWA has the lowest shift differential paid to any of the bargaining units. As for service credit increases, the Union proposes an increase of \$250.00 for each of the contractual service groups, a longevity increase which compares equitably with other bargaining units in the City.

In the presentation of its financial data, the City omits information crucial to an evaluation of the economic proposals now under consideration. For example, a significant number of CMAGE employees are paid from enterprise funds, rather than the General Fund whose depletion the City cites to justify its position. Moreover, the City has substantial funds in two special accounts: The Economic Stabilization Fund and the Anticipated Expenditure Fund. The decline in revenues cited by the City simply does not provide an accurate depiction of the ability of the City to pay the increases sought by this Union.

V Insurance

Although the parties have negotiated adjustments to the insurance provisions of the Agreement, a disagreement on the monthly contribution of employees remains. CMAGE/CWA proposes a maximum monthly contribution as follows:

	April 03	September 03	September 04
Single	\$20.00	\$24.00	\$26.00
Family	\$41.00	\$46.00	\$54.00

In addition, the Union proposes increasing the life insurance of bargaining unit members to \$100,000 per member.

Due to the fiscal ramifications of such a change, the city opposes the increase in life insurance proposed by the Union. For modifications to the caps to the employee contribution, the City proposes:

	April 03	September 03	September 04
Single	\$17.00	\$19.00	\$22.40
Family	\$44.00	\$49.50	\$58.25

Through discussion the parties have established an understanding for co-payment which includes brand name prescription drugs “dispensed as written,” whenever an employee is unable to take the generic drug.

Discussion

Through mediation and negotiations prior to fact-finding, the parties reached a Tentative Agreement to change existing provisions of their labor agreement (Joint Exhibit B). Although some of the negotiated modifications to contractual language constitute “housekeeping” matters, such as changing terminology, others reflect an agreement to make substantive changes. The fact-finder incorporates into this Report those tentative agreements reached by the parties. Acknowledging that bargaining is a bilateral process, the fact finder endeavors in this report to forge an Agreement on issues not previously resolved which is based not only upon the statutory criteria but also upon the respective objectives of the City and the Union.

I Fair Share Fees

The fact-finder recommends the inclusion of Union language on fair share fees into Article 3 of the Agreement between the parties as set forth hereinafter in Appendix A. As the bargaining unit includes approximately 1,300 employees, the obligations of the Union as bargaining agent are extensive. In order to effectively perform its duties of representation, the Union must be afforded the same recognition extended to other unions with which the City negotiates. Although the Collective Bargaining Act implemented by the State of Ohio does not compel the City to accede to a fair share fee, the City has extended this Union right to the other bargaining agents for employees within the municipality. This hearing officer can find no justification for the allowance of fair share fees to AFSCME, IAFF and the FOP, and the failure of the City to extend a comparable union right to the bargaining agent in the instant proceeding. Objecting to the Union proposal, the City contends that a large percentage of unit employees have previously declined membership and a fair share fee is tantamount to compelling payment for the very membership such employees have refused. In the shaping of our system of labor jurisprudence, however, this argument has been thoroughly addressed and rejected. The expectation that an individual ought to pay for the services made available rather than be granted a “free-ride” is already well-ingrained in labor relations within this city.

Accordingly, the fact-finder recommends fair share fee language be included in Article 3 of the Agreement between the parties.

II Union Representation

Although the fact-finder understands the endeavor by the Union to secure greater opportunity for Union officials to represent unit employees, she must agree with the City that the Union has not satisfactorily demonstrated in these negotiations a need for the modification. The evidence establishes that the parties have agreed upon language that grants to the Union increased representation for the bargaining unit in the full time release of the Union President and Vice-President. Moreover, during these negotiations, the Union effected an affiliation with the Communications Workers of America, an international with significant clout and resources. Should these newly established opportunities prove to be insufficient for the Union to properly render assistance to the unit in the processing of grievances or in rendering representation during investigatory interviews, then the Union may seek additional allowance in subsequent negotiations. There is no evidence, however, that the frequency with which grievances are presently filed justifies the proposal of the Union. On the other hand, the City proffered

testimony and evidence that the release sought by the Union would disrupt operations at the various labor-intensive work sites managed by the City.

The fact-finder does not recommend the changes sought by the Union to Article 4.2 of the Agreement additional to those already agreed upon by the City.

III Leaves of Absence

The evidence establishes that the parties have already agreed upon changes in Article 14 of the Agreement between the parties relative to Leaves of Absence. In dispute at present is the elimination of Section 14.10 as argued by the Union, or alternatively the modification of that section as proposed by the City. Previous contract language provided for a reopener if either the General Assembly enacted legislation impacting upon the Injury Leave Program or the Bureau of Workers' Compensation effected changes in its rating methodology in such a way as to negatively impact the injury leave program. The modifications sought by the City arise from the fact that the General Assembly has, indeed, enacted legislation granting municipalities the right to self insure. Accordingly, the City seeks to modify Section 14.10 to provide for a reopener should the City avail itself of this opportunity.

In the opinion of the fact-finder this Union had previously agreed to a reopener should operative facts be set in motion. While the General Assembly has enacted the legislation contemplated by Section 14.10, the City has not yet pursued the right to self insure. The modifications sought by the City simply preserve the reopener should the City exercise the legislated right. Additionally the City seeks an alternate dispute resolution in the form of arbitration should the parties be unable to resolve the issue in negotiations.

The modifications sought by the City to Article 14.10 carry the previously negotiated intent of the parties to collectively bargain changes to injury leave into the current contract. Thus, the position of the City merely adjusts the contract language to current circumstances and the changes to Article 14.10 proposed by the City reiterate a prior agreement on the part of the Union.

The fact-finder recommends the inclusion of the City proposal on re-opener language to be included in Article 14.10 as set forth in Appendix B.

IV Salaries and Compensation

Not surprisingly, the most contested issue in this proceeding is the matter of wages and compensation. What is unusual in these negotiations, however, is that the parties are not just at variance about percentage increases for the wages of the bargaining unit. In addition to an across the board increase, implementation of a pay plan is in contention.

Included within the City proposal is an extensive modification to the pay plan presently in place. Much testimony and evidence was elicited concerning the history and the findings of the job evaluation studies undertaken by the City. In its proposals for this Agreement, the City seeks to incorporate those results into the Salary and Compensation provisions set forth in Article 17, and to tie the across the board increases to the consumer price index. Karen Hudson, City Compensation Manager, testified as to the labor market study prepared by the consulting firm of Watson-Wyatt during the summer of 2002, an updating of a previous study referred to as the Hay study. Because the new analysis demonstrates that this bargaining unit is competitively paid, the City contends the across the board increases sought by the Union are without merit.

Moreover, the City asserts that the Watson-Wyatt Study was initiated because the City understood that job analysis and advancement through a comprehensive plan was a mutual goal of the parties. Further, the City maintains that the opportunity for an annual merit review, as provided for in its Article 17 proposal, is responsive to demands presented by the Union. To now renege on those interests after the City has expended considerable monies to address the concerns of the Union lacks good faith. Finally, the City elicited considerable testimony from the Director of Finance to sustain the assertion the City lacks the resources to afford the across the board increases proposed by the Union.

Opposed to the City plan, the Union seeks to maintain the current pay plan until such time as it is mutually modified and to implement in this negotiation an across the board increase for all classifications of 8%, 7% and 6% in each year of the three year contract. To sustain its position the Union cites internal comparability with units such as AFSCME, members of which are supervised by employees within this Union. Additional wage proposals of the Union include increasing the shift differential and the service credits presently in place in the Agreement.

In the opinion of the hearing officer, by submitting adaption of a new pay plan the City herein is endeavoring to secure through fact-finding a proposal beyond the scope of recommendations typically issued in this statutory dispute resolution process. Since the inception in 1984 of the Collective Bargaining Act, guidelines and principles for issuance of recommendations by fact-finders for successor contracts have evolved. Based upon these precedents, this fact-finder cannot recommend the changes to the pay plan now sought by the City.

First, statutory criteria to be considered by the fact finder include the prior Collective Bargaining Agreements between the parties. In principle a neutral will resist recommending substantial change to a previously negotiated provision unless the proponent for modification presents convincing justification for the same. Absent demonstration of a crucial need for change in the plan and in view of the intense opposition of the Union at this time, the hearing officer lacks a reasonable basis for recommending implementation of the pay plan proposed by the City.

Second, by statute the fact-finder must consider comparability in the issuance of her recommendations. An essential component of the pay plan proposed by the City is the restructuring of the pay table based upon the market study conducted by Watson-Wyatt. Evidence submitted to the fact finder includes Key Findings of Market Competitive Analysis, Methodology for Pay Grade Assignments, an Estimated Market Value Summary, as well as a sample of the Multiple Comparators used in the Market Analysis Report. As the testimony and documentation suggest, however, except for a limited number of positions, the current compensation structure is, indeed, competitive. Thus, the fact finder cannot conclude that comparability warrants reassignment of job classifications in accordance with the Watson-Wyatt Report. Moreover, although the paperwork is substantial, this evidence lacks the numerical data upon which the fact-finder can rely to make a rational conclusion concerning adjustments based upon comparability. Indeed, it was submitted that assignment of classifications within a pay grade would occur subsequently.

Third, and, perhaps most significantly, guidelines for submission by the fact finder include the adaptability of the recommendations into the Collective Bargaining Agreement. As fact-finding recommendations are intended to be able to provide the basis for resolving interest

disputes, specificity in the report is a key characteristic. In this instance, however, recommendation of the pay plan proposed by the City is fraught with uncertainty for the bargaining unit. A proposal to assign classifications to pay grades based upon the Watson-Wyatt market evaluation and to place individual bargaining unit members within the classification "either at the mid-point or an appropriate percentage of the mid-point based upon individual knowledge, skills, abilities and years of experience" simply lacks the specificity requisite for a fact-finding recommendation. Adaption of the pay plan would, in the opinion of the fact-finder, most certainly generate future conflict over its implementation.

Considering the foregoing, the fact-finder does not at this time recommend the inclusion of the pay plan proposed by the City. Although she is of the opinion that the current system warrants adjustment, fact-finding is not the forum for doing so. Limitations of time and diversity of issues inhibit the ability of a fact-finder to properly consider the restructuring of a pay table for a unit such as this one which includes a multitude of classifications. Such a dispute warrants a separate proceeding in which focus is exclusively upon the pay plan.

Accordingly, the fact-finder does recommend that immediately upon the ratification of a new Agreement, the parties mutually engage in discussions with the purpose of establishing a new pay structure. The Fact-finder acknowledges that the City expressed the opinion that if the change were not implemented in this round of negotiations, it would not occur. However, if the parties designate time guidelines after which the matter proceeds to final and binding arbitration, an incentive for reaching Agreement is established. In view of the studies and efforts already completed, there is no reason why the process cannot be concluded by the second year of this labor contract.

In addition to the foregoing, the fact-finder recommends an across the board increase of 4% for the first contract year retroactive to August 24, 2002. Recognizing that this increase may appear high in view of the fiscal constraints evidenced by the City, the fact finder nonetheless concludes that the proposed increase is consistent with bargaining patterns established by the City. Impact of fiscal hardship for the City may not be restricted to this bargaining unit. Although the City indicated that substantial wage increases will occasion a correspondingly substantial lay-off, this unit should not be singled out to bear these financial burdens. The City cannot expect the bargaining unit to incur anticipated lay-offs to help pay for the 4% and 6% increases granted to AFSCME and the IAFF, respectively, without providing the unit with a comparable pay increase. The fact-finder understands that ultimately all units with which the City bargains will be affected by the economic crises now confronting the City, but unless this unit receives the 4% increase in wages for fiscal year 2002-2003 comparable to the other units with which the City bargains, it will be disproportionately disadvantaged during the concessionary bargaining anticipated to occur. Uniform cuts and concessions cannot be effected in the absence of internal equity among the bargaining units.

Given the uncertainty of our economic times, this fact-finder simply does not have the resources with which to recommend percentage increases for the two remaining years of the contract. As the fact-finder has recommended the parties engage in further negotiations for a new pay plan, she also recommends that the parties use a re-opener to bargain rate increases for contract years 2003 and 2004. In discussions, the Union expressed concern for bargaining after the FOP which will presently be in negotiations with the City. Yet, the intent of the fact-

finder is not to reduce the contract to two years or to re-align the bargaining calendar, but, rather, to give the parties the time and the opportunity to re-evaluate positions with more fiscal certainty.

In recommending a greater wage increase than that offered by the City, the fact-finder remains cognizant of the financial hardship described in testimony and documentation by the Director of Finance. Although she believes that financial shortfalls, unlike “windfalls,” do not occur in a vacuum, but are preceded by economic indicators, the fact-finder, nonetheless, is of the opinion that restraint in these negotiations is mandated by the fiscal situation now confronting the City. Accordingly, on the remaining economic issues the fact-finder recommends cautious adjustments, including the shift differential proposed by the City, and a service credit increase of \$50.00 for each service level. At this time, the fact finder does not recommend any changes to the Out of Classification Work provisions.

V Health Insurance

Managing health care costs has been a principal objective of the City in its bargaining strategy. In its negotiations with AFSCME, the City achieved the changes it sought, and through its negotiations with CMAGE/CWA it achieved a comparable objective. As the parties reached agreement on modifications to the health care provisions of the Agreement, the fact finder understands that the only issues remaining on the table are the monthly employee “caps” and the life insurance proposal of the Union. The difference in the two sets of proposals on the maximum monthly employee contribution is that the Union proposes a lower cap for the family premium and a higher cap for the single member contribution. As the Union has agreed to the increased employee participation, the fact finder recommends that its proposal on the employee caps be implemented as part of the insurance provisions of the Agreement.

Due to the current fiscal situation the fact finder does not recommend that the life insurance increase proposed by the Union be implemented at this time. Such a proposal may be more achievable when the City is less economically challenged. At present the proposal has an immediate financial cost to the City without providing a comparably immediate perquisite for the employee. Other financial recommendations included in this report have a more direct impact on the economic goals of the individual employee.

Summary

In summary, the fact-finder makes the following recommendations:

- I The fact-finder recommends the fair share fee language proposed by the Union and set forth in Appendix A herein.
- II The fact-finder does not recommend the additional union representation sought by the Union at this time.
- III The fact finder recommends the modifications sought by the City pertinent to re-opening negotiations relative to injury leave as set forth in Appendix B hereinafter.
- IV The fact finder does not recommend implementation at this time of the pay plan

proposed by the City. She does recommend that upon ratification of an Agreement the parties engage in discussions relative to establishing a new plan, with guidelines and time limits, culminating in final and binding arbitration in the event the parties cannot secure Agreement.

The fact-finder recommends an across the board increase of 4% for contract year 2002-2003, retroactive to August 24, 2002. She further recommends a wage re-opener for the final two years of the contract.

The fact finder recommends increasing service credit by \$50.00.

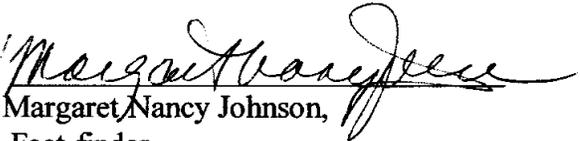
The fact finder recommends the City proposal on differential pay as set forth in Appendix C

The fact finder does not recommend the union proposal on Out of Classification work.

- V The fact-finder recommends the maximum monthly caps as proposed by the Union and as set forth in Appendix D hereinafter.

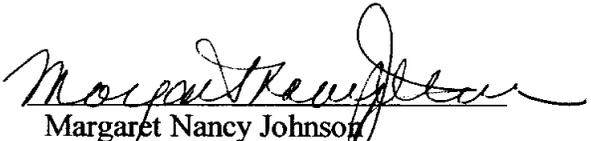
The fact-finder does not recommend the life insurance change proposed by the Union.

Respectfully submitted,


Margaret Nancy Johnson,
Fact-finder

Service

The foregoing Report and Recommendations were personally delivered this 22nd day of October, 2002, to Robert E. Thornton, Chief Labor Relations Negotiator for the City of Columbus, at 90 West Broad Street, Columbus, Ohio 43215, and to Carnell B. Felton, CMAGE/CWA President, at 1150 Morse Road, Suite 107, Columbus, Ohio 43229; and by regular mail to Dale Zimmer, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213.


Margaret Nancy Johnson

APPENDIX A

Section 3.4 Fair Share Fee

Any present employee who is not a member of the Union, and all employees hired before or after the effective date of this Agreement and who have not made application for membership shall, commencing sixty-one (61) days after their employment or the effective date of this Agreement, whichever is later, so long as they remain non-members of the Union, pay to the Union each month their fair share of the cost of the collective bargaining process and agreement administration measured by the amount of dues and other financial obligations uniformly required by members of the Union. Such fair share payments shall be deducted by the City from the earnings of such non-member employee(s) once each month, and paid to the Union in accordance with Section 3.1. The Treasurer of the Union shall certify to the City the amount that constitutes said fair share that shall not exceed the dues and financial obligations uniformly required by members of the Union.

The Union agrees to comply with its legal obligations to fair share fee payers. Further, it is agreed that any dispute concerning the amount of the fair share fee and/or the responsibilities of the Union with respect to fair share fee payers shall not be subject to the grievance and arbitration procedure set forth in this Agreement.

APPENDIX B

Section 14.101-. Reopener.

The parties agree that Article 14 will be reopened if either of the following two actions occur:

(A) ~~The General Assembly enacts legislation that would affect the City's Injury Leave Program and/or Workers' Compensation Program, (i.e., granting municipalities the right to self insure)~~ **The City opts to self insure..**

(B) The Bureau of Workers' Compensation (BWC) changes its rating methodology in such a way as to negatively impact the injury leave program.

Upon notice to the other party, the parties shall meet within fifteen (15) days to begin negotiations for successor language. ~~If impasse is reached regarding successor language the impasse procedures shall be governed by applicable State Employment Relations Board (SERB) law.~~ **Negotiations shall not exceed thirty (30) days. If the parties are unable to reach an agreement, they shall submit unresolved issues through arbitration pursuant to Section 8.2, Step 3, of this Agreement, except that the parties shall share the expenses equally.**

APPENDIX C

Section 17.57. Shift Differential.

The Appointing Authority at the time of hire shall designate or assign the applicable shift for each new hire. The shift designation shall determine the shift differential for the entire shift. Only full-time, non-seasonal D-level employees are eligible for shift differential pay.

(A) The early morning shift shall be known as the First Shift, the late afternoon shift shall be known as the Second Shift (i.e., a shift where a majority of the hours occur between 3:00 p.m. and 11:00 p.m.); and the late evening shift shall be known as the Third Shift (i.e., a shift where a majority of the hours occur between 11:00 p.m. and 7:00 a.m.).

(B) **Effective with the pay period that includes August 24, 2002, a** differential in pay of ~~thirty-seven cents (\$.37)~~ **fifty-two cents (\$.52)** per hour over the regular hourly rate shall be paid to full-time, non-seasonal D-level employees who are assigned to work eight (8) hours on the Second Shift; a differential of ~~forty-five cents (\$.45)~~ **sixty cents (\$.60)** per hour over the regular hourly rate shall be paid to full-time, non-seasonal D-level employees who are assigned to work eight (8) hours on the Third Shift.

(C) **Effective with the pay period that includes August 24, 2002, †** those employees whose regularly assigned shift is a rotating shift shall be paid a shift differential of ~~forty-five cents (\$.45)~~ **sixty cents (\$.60)** per hour over the regular hourly rate for all hours worked regardless of shift. For purposes of this

provision, a rotating shift is a permanent shift that is comprised of a regularly scheduled assignment on First, Second and Third shifts or any variation thereof.

(D) For purposes of computing leave with pay except for compensatory time, shift differential shall not be paid in addition to regular pay.

(E) In those divisions, departments, and offices where only one (1) shift prevails, no differential shall be paid regardless of the hours of the day that are worked.

(F) Shift differential pay shall be added to the base hourly rate prior to computing the overtime rate.

(G) Any employee who participates in a flextime program shall not qualify for shift differential pay.

Section 17.68. Service Credit.

A service credit payment shall be paid during December of each year to full-time non-seasonal employees who are in paid status or authorized leave without pay as of November 30 of each calendar year in accordance with the schedules below. The computation shall be based on years of continuous service as set forth in the following schedule and shall be based upon paid status as a full-time employee as of November 30 of the appropriate calendar year. For the sole purpose of determining service credit in this Section 17.68, years of continuous service shall include military leave without pay, leave without pay due to a City injury when the employee is receiving payments in lieu of wages from the Ohio Bureau of Workers' Compensation, and other administrative leave without pay as authorized by the Appointing Authority for activities connected with City employee relations. No service credit shall be allowed or paid to any employee for time lost for any other leave without pay or time lost as a result of disciplinary action.

The following service credit schedule shall be used for all eligible bargaining unit employees.

Service Credit Payment Schedule

More than 5 years of continuous service	\$500.00
More than 8 years of continuous service	600.00
More than 14 years of continuous service	700.00
More than 20 years of continuous service	800.00
More than 25 years of continuous service	900.00

Section 17.7. Tuition Reimbursement.

~~All full-time employees who have completed one or more years of continuous~~

APPENDIX D

Single	April 03 \$20.00	September 03 \$24.00	September 04 \$26.00
Family	\$41.00	\$46.00	\$54.00
