

STATE EMPLOYMENT
RELATIONS BOARD

2005 AUG -8 A 11: 36

IN THE MATTER OF FACT FINDING

BETWEEN

**LOCAL 1313 AFSCME
OHIO COUNCIL 8, AFL-CIO**

AND

CITY OF TWINSBURG

SERB CASE # 05-MED-03-0172

ADVOCATE FOR THE CITY:

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INTRODUCTION

AFSCME Ohio Council 8, AFL-CIO, Local 1313 (hereinafter "Union" or "AFSCME") represents the bargaining unit, and the Employer is the City of Twinsburg (hereinafter "City", or "Employer"). The bargaining unit is comprised of approximately thirty- (30) employees who perform a variety of administrative and other vital services for the City. AFSCME also represents another major bargaining unit of service and park employees in the City who agreed to a new contract following fact-finding in March of 2005. The undersigned fact-finder served as the fact-finder in the previous bargaining unit's settlement.

In the opinion of the fact-finder, the parties, who are negotiating their first collective bargaining agreement, have what appears to be a very good working relationship. The individuals present at the hearing who were representing both labor and management demonstrated a sincere interest in providing quality service to the citizens of Twinsburg.

Both Advocates represented their respective parties well and clearly articulated the position of their clients on each issue in dispute. In order to expedite the issuance of this report, the fact-finder shall not restate the actual text of the parties' proposals on each issue, but will instead reference the Position Statement of each party. The Union's Position Statement shall be referred to as UPS and the Employer's Position Statement shall be referred to as EPS.

Listing Of Unresolved Issues:

Article 20 Wages, Life Guard Equity Increase
Article 21 Insured Benefits
Article 18 Section 1 Shift Differential
Article 16 New section Hours of Work and Overtime
Article 22 New Section 7 Sick Leave

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C)(4)(E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

OVERALL RATIONALE FOR RECOMMENDATIONS

Recently reported data on the gross national product appears to indicate the county is experiencing steady growth. However, this reported prosperity is unevenly distributed throughout the country. These are uncertain times for the citizens of Ohio and for its public employees and employers. While the state of Ohio continues to struggle with a shortfall between revenue and expenses that is tallied in the billions of dollars, many parts of the country are enjoying a robust economy. One economic indicator is the housing market. In some parts of the country housing prices continue to rise steadily, even remarkably. While in other housing markets, like those in many parts of Ohio, housing values are flat or show moderate growth.

The federal government continues to ratchet down aid to the states and, in turn, the states are reducing aid to municipalities and other local government entities. The difference is many other states appear to be in far better financial shape to adjust to such changes than is Ohio. In recent weeks General Motors announced a reduction of some 25,000 employees, and it is reasonable to assume many will come from Ohio plants. This is yet one more in a series of job losses that has hit manufacturing in Ohio in recent years. During this timeframe the City of Twinsburg lost a major employer and with it went the loss 800 jobs and over \$800,000 in revenue for the city. It appears economic foul weather may be

plaguing Ohio for the foreseeable future. And, one only has to assess the number of school levies defeated in northern Ohio during the first part of August to understand that the citizens of Ohio are very reluctant to increase taxes. As with all business there is a bottom line to watch, and the business of public government is no exception. It has been said that the keys to sound management are prudent stewardship of resources, fiscal responsibility, revenue growth, and maintaining quality employees. Northeast Ohio is very dependent upon the auto industry as a bellwether of its future. The U.S. auto industry is currently carrying large inventories and sales are down, which is why the big three automakers recently began selling cars at employee discount prices. Whether this will continue is unclear, but there is no doubt northeast Ohio is affected by auto production.

The City of Twinsburg currently has a reasonably sound local financial base, with one of its largest employers being an auto plant, the Daimler-Chrysler Plant. Yet as stated above, the market for automobiles is volatile, and the recovery and growth of other manufacturing facilities in Ohio appears to be uncertain. Certainly competition by companies with facilities in China and other locations outside of the United States is a factor. The City should be given credit for its prudent management of resources. Without strong indicators of revenue growth it is not unreasonable for a city or any other public entity to be fiscally cautious. The City's carry-over balance, while currently substantial, is projected to decline due to the need to offset rising costs. Health care costs have risen

some 36% since 2002, and there is little reason to believe this trend will change. Other costs such as PERS are scheduled to be increased for the City and each employee. The balancing act of providing quality services while prudently managing public funds places considerable pressure upon city councils, city administrators, and the very employees a city must rely upon to provide quality services. It goes without saying that quality services require quality employees, and in order to recruit and retain good employees they must be compensated fairly within the context of economic reality.

The first three issues address regular compensation and health care. What the City has offered is consistent with what other bargaining units (internal and external comparables) have negotiated with their employers (see SERB data). According to SERB, the Cleveland average for 2004 was 2.83%. Given settlements this fact-finder is aware of during the first seven (7) months of 2005, the average increase is likely to be lower. The City and AFSCME are proposing the same increase in 2005. In years 2006 and 2007 the Employer's proposal is likely to be more commonplace among many public employers, given the way the data has been trending the last few years. In fact, the average data becomes even more skewed when consideration is given to public entities that are being forced to lay off employees and cut back on major benefits such as health care. Healthcare and wages are often viewed by employees and employers as being nearly equal in importance. The wage proposal forwarded by the Union, once considered "the going rate" for wage increases for most of

the late 1990s and earlier 2000s, reflects slightly above average increases in the second and third year, which currently cannot be supported by comparable data. The same cannot be said for the Union's arguments regarding the wage equity adjustment for the position of Lifeguard. The comparable data, while widely scattered, demonstrates a need to upgrade this important full time position, especially when the comparables are limited to cities in northeastern Ohio. Under the Employer's proposal the Lifeguard will make \$9.17 per hour after a 3% increase in pay. The Union is seeking a new salary level of \$25,000 per year. In viewing Union Exh. 4 it is noted that in the same department, Parks and Recreation, the Senior Van Driver makes \$3.00 more per hour and the Attendant/Receptionist makes approximately \$6.50 more per hour.

The health care proposal differences between the parties centers upon the placement of caps on employee contributions. The Employer is proposing the same "me too-cap" language that the Union and the City agreed to in March of 2005 for the other AFSCME bargaining unit. This language ensures that employees of the bargaining unit will pay no more than any other organized city employee, including police and fire. I find the Employer's proposal and arguments that all bargaining unit employees need to be treated equally to be persuasive.

The issue regarding shift differential finds the Employer seeking to limit shift differential for vacation time to five days. I find this proposal to be largely unsupported by internal comparables. For example, police employees and

service employees have no such limitations. Additionally, the Union provided evidence that the cost savings to the City is minimal.

In Issue 5 the Union is seeking protection for employees to prevent the City from changing work schedules to avoid the payment of overtime. It is a right of an employer to be as cost efficient as possible and to take reasonable steps to avoid the payment of overtime. However, it is also generally accepted in a collective bargaining setting that to change an employee's posted or regular work schedule solely for the purpose of avoiding overtime is unreasonable. This does not apply to the ongoing need of an employer to seasonally adjust the work schedules of employees, such as those who work in a street or park department in order to meet operational needs.

Issue 6 does not deal with the substance of this existing benefit, but only whether it should be placed in the Collective Bargaining Agreement. I find no substantial justification to keep it out of the Collective Bargaining Agreement since by operation of law it is a mandatory subject of bargaining.

ISSUES 1 and 2. WAGES/LIFE GUARD EQUITY INCREASE

Union's Position

See UPS

Employer's Position

See EPS

FACTFINDER'S DETERMINATION

Wages: Effective January 1, 2005: 3%
 Effective January 1, 2006: 2.5%
 Effective January 1, 2007: 2.5%

Life Guard Salary: Effective January 1, 2005: \$21,000, plus 3%
 Effective January 1, 2006: \$22,000, plus 2.5%
 Effective January 1, 2007: \$23,000, plus 2.5%

ISSUE 3. INSURED BENEFITS

Union Position

See UPS

Employer Position

See EPS

FACTFINDER'S DETERMINATION

The Employer's position as stated in its position statement is adopted

ISSUE 4. SHIFT DIFFERENTIAL

Union Position

See UPS

Employer Position

See EPS

FACTFINDER'S DETERMINATION

The Union's position as stated in its position statement is adopted

ISSUE 5. HOURS OF WORK AND OVERTIME

Union's Position

See UPS

Employer's Position

See EPS

FACTFINDER'S DETERMINATION

Add the following language:

An employee's posted work schedule (or in the case of no posting; his/her regularly scheduled hours) shall not be changed solely for the purposes of avoiding the payment of overtime, unless the employee agrees to such change.

ISSUE 6. SICK LEAVE

Union Proposal

See UPS

Employer Proposal

See EPS

FACTFINDER'S DETERMINATION

The Union's position to place in the Collective Bargaining Agreement the existing benefit of sick leave cash out contained in City Ordinance is adopted.

TENTATIVE AGREEMENTS

During negotiations, mediation, and/or fact-finding the parties reached tentative agreements on several issues. These tentative agreements are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 6th day of August 2005 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read "Robert G. Stein", written over a horizontal line.

Robert G. Stein, Fact-finder