

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD

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In the Matter of the Fact-Finding Between:

United Steelworkers of America, District 1)	
Employee Organization)	
)	
v.)	Case No. 06-MED-03-0433
City of Reynoldsburg)	
Employer)	
)	

APPEARANCES

Representing the Union: Mark Shaw, USW Contract Coordinator, Billy Boyce, USW Sub-District Director, Randy Wilson, Maintenance Equipment Operator, Mike Schultz, Maintenance Operator/Specialist, David Ickes, Maintenance Equipment Operator

Representing the City: Marc Fishel, Representative, Brad McCloud, Mayor, Megan Kish, Director of Human Resources

Before Sarah Rudolph Cole, Fact-finder

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FACT-FINDING REPORT AND RECOMMENDATIONS

The parties to this Fact-Finding proceeding are the United Steelworkers of America, AFL-CIO-CLC, District 1 (the "Union") and the City of Reynoldsburg (the "City" or "Employer"). The bargaining unit consists of seventeen employees in the water/wastewater division, the street division and the parks and recreation department, excluding clerical employees. The parties are attempting to negotiate an initial collective bargaining agreement. The Union was first recognized on March 29, 2006. A petition for decertification election was filed on March 19, 2007. The City filed a motion to stay negotiations while the petition was pending. As a result, there were no negotiations between April 20, 2007 and the date the petition was rejected, July 13, 2007. The parties met for the purposes of negotiations on November 21, 2006, December 7, 2006, January 10, 2007, March 20, 2007, April 19, 2007, August 29, 2007, September 10, 2007, September 17, 2007, and September 19, 2007. The parties met with a SERB mediator on October 1, 2007, October 29, 2007, and December 10, 2007. In January 2008, Brad McCloud replaced Robert McPherson as the Mayor of the City of Reynoldsburg. Following this change in leadership, the Union and the City met for purposes of negotiations on February 27, 2008, and March 18, 2008.

The hearing took place on September 12, 2008 and was conducted in accordance with Ohio Collective Bargaining Law and applicable SERB Rules and Regulations. The outstanding issues between the parties were wages, longevity pay, and fair share fee. The parties submitted these unresolved issues for fact-finding. The fact-finder addresses these unresolved issues in the following report.

Fact-finders must consider the criteria articulated in Ohio Revised Code § 4117.14(C)(4)(e) and Ohio Administrative Code § 4117-9-05(K) when making a decision.

Criteria to be considered are:

- (a) past collectively bargained agreements, if any, between the parties;
- (b) comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) 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;
- (d) the lawful authority of the public employer;
- (e) the stipulation of the parties;
- (f) such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment.

I. Wages

Employer Position

The Employer proposes a wage increase of 2% effective January 1, 2008, 2% effective January 1, 2009 and 2% effective January 1, 2010. While the Employer agrees that wages should be retroactive to January 1, 2008, it contends that retroactivity should not extend back to the date the Union was first recognized because of numerous delays during the negotiations process. The Employer stated that in 2002-2003, it commissioned a pay study to place an economic value on the various positions within the City. The study considered comparable jurisdictions to determine the appropriate pay range for each position. The pay ranges, identified in Employer Ex. 5, provide the structure that the City follows for all of its non-bargaining unit

employees. The City believes that this structure, updated in 2006, is very workable and makes sense for the City. The City also emphasized that a lower wage increase than the Union demands is appropriate because the City's recent changes to its health insurance package provide significant economic benefits to the workers in the bargaining unit. In 2008, the City ensures that workers pay no out-of-pocket costs for their health insurance. In other words, for 2008, the City pays 100% of the employees' health care costs. According to the City, no other jurisdiction offers better benefits than does the City.

Union Position

The Union proposes a wage increase for six of their employees of 3-1/2% retroactive to January 1, 2008, 3% on January 1, 2009 and 3% on January 1, 2010. For the remaining bargaining unit employees, who the Union believes are significantly underpaid compared to the market, the Union proposes a wage increase of 12% retroactive to January 1, 2008, followed by a 3% increase in 2009 and a 3% increase in 2010. The Union also proposes that in lieu of retroactive wage increases for the years 2006 and 2007, when the newly recognized unit was bargaining with the City, employees should receive a lump sum payment of \$1871.80, which is the average loss of wages during that time period (compared to the non-bargaining unit employees who received a 2% wage increase in 2006 and another 2% wage increase on January 1, 2007, 1% in June 2007 and, on January 1, 2008, a 3-1/2% wage increase). The Union recognizes that there was a delay between recognition of the Union and the negotiations of the new agreement. The Union contends that the delays were not its fault and that its workers are entitled to this lump sum payment to keep them even with the non-bargaining unit employees.

The Union believes that this unit's employees, particularly the lower paid workers, are paid significantly less for the same jobs than similarly situated employees in nearby communities. To support their belief, the Union submits comparable wage information from surrounding communities including Dublin, Hillard, Gahanna and Westerville. This information will be discussed in the analysis below.

Recommendation: The fact-finder recommends that each full-time employee receive a lump payment of \$1,871.80 in lieu of a retroactive wage increase to March 2006. If there is a part-time employee who was a member of the bargaining unit, his lump sum payment should be reduced pro rata based on the number of hours he worked during 2006 and 2007. In addition, employees in the bargaining unit shall receive a 3-1/2% wage increase retroactive to January 1, 2008, as well as an increase of 3% in 2009 and another 3% in 2010. Finally, the lower paid employees, as indicated on Union Exhibit 1, should receive an additional 2% wage increase per year. These 10 employees, therefore, will receive an additional 2% wage increase retroactive to January 1, 2008, 2% on January 1, 2009 and 2% on January 1, 2010.

A. Lump Sum Payment

The Union contends that it should be entitled to a lump sum payment to make up for the raises it did not receive since it was recognized as a union in March 2006. While the Union understands that the City must maintain the status quo with the new Union during the initial negotiations period, it nevertheless believes it is important to keep pace with the non-bargaining unit employees, all of whom received raises during this time period. Specifically, the non-bargaining unit employees received a 2% increase in 2006, a 2% increase in 2007 and another 1% increase in June 2007. Evidence of this internal comparable is persuasive to the fact-finder. The City argued that the delays in the negotiation process militated against this type of retroactive payment. Although there were delays in the negotiations process, neither party was successful in determining whose "fault" the delays were. As a result, it would be unfair to hold the delays against the Union and refuse to provide them compensation to replace the wage increases they would have received as non-bargaining unit employees. During the fact-finding,

the parties discussed the impact of a retroactive lump sum payment on the part-time employee. The part-time employee should have his lump sum payment pro rated so that he only receives a lump sum amount that is pro rated for the number of hours he actually worked.

B. Wage Increase

The Union presented abundant data from comparable communities to support its wage increase requests. The Union presented evidence from Dublin, Hilliard, Gahanna and Westerville, all nearby communities. The City objected to Dublin because it is a larger city, with much higher tax revenue and a much bigger comparable department. The fact-finder is convinced that Dublin is a wealthier and larger community than Reynoldsburg and will, therefore, not use Dublin as a comparable.

The City agreed that Gahanna, Westerville and Hilliard were reasonably comparable communities. The City was concerned, however, that the positions identified in the wage rates in the other communities did not match the positions held by unit employees in Reynoldsburg. The City provided no evidence regarding this point, however. The Union contended that these positions were comparable. In the absence of evidence that these positions are different and because they are titled very similarly or identically, the fact-finder will treat these positions as comparable to the positions held by Reynoldsburg employees.

Mechanics in Hillard earn \$18.687 per hour. Maintenance workers earn \$17.95 per hour. In Gahanna in 2008, probationary employees who are fleet technicians or equipment operators (comparable to Reynoldsburg's maintenance equipment operator position) earn \$17.94 per hour. Probationary mechanics earn \$20.98 per hour. A Gahanna Fleet Technician Foreman (comparable to a Reynoldsburg Head Mechanic) in the highest pay grade earns \$25.83 per hour.

According to the City's evidence, the wage range for a mechanic in Gahanna begins at \$36,233.60 and tops out at \$50,190.40. Gahanna employees will receive a 3% wage increase on January 1, 2009 and another 3% wage increase on January 1, 2010. In Westerville, which organized about five years ago, a maintenance specialist, a position which the Union contends is comparable to a Reynoldsburg maintenance operator, at step 1 in 2008 will earn \$19.92 per hour. The highest paid maintenance specialist earns \$25.90 per hour. The City's evidence states that a Westerville Maintenance Repair Worker, comparable to a Reynoldsburg Maintenance Specialist/Equipment Operator, earns \$16.41 per hour at the lowest rate and \$22.22 at the top end of the pay range. According to the Union, a Westerville garage mechanic, comparable to a Reynoldsburg Head Auto Mechanic, earns \$19.92 per hour in 2008 at step one and \$25.90 at step 6. According to the City's evidence, a Westerville mechanic earns \$41,433.60 at the low end of the pay scale and \$53,872.00 at the top end of the range.

Maintenance equipment operators in Reynoldsburg start at \$15.56 per hour and have three top employees who earn \$22.26 per hour. The Reynoldsburg Head Mechanic currently earns \$21.96 per hour. Examination of the wage rates of similar positions in comparable jurisdictions demonstrates that maintenance equipment operators and mechanics, especially those at the lower end of the pay scale, make less than those holding similar positions in other jurisdictions. The jurisdiction both parties agree is a good comparable, Westerville, pays its maintenance repair workers approximately \$3000 more per year at the low end of the pay range and slightly more per year at the top end of the range. This data confirms the Union's belief that its lower paid workers are out of step with market rates.

At the same time, however, the fact-finder is aware that the City confronts uncertain and potentially difficult financial times. Moreover, the fact-finder takes notice that the City's current

health insurance package, which requires no contribution by unit employees, is much cheaper for its employees than for employees in comparable jurisdictions. The fact-finder also notes that the City has not promised to maintain this insurance plan for the life of the Agreement. In light of uncertain financial times, it would not be surprising if the City had to reduce the health insurance benefit in the future.

Taking all this information together, the fact-finder concludes that the lower paid employees in the unit are entitled to bigger increases during the three year Agreement than the higher paid employees. The fact-finder sees no reason to treat any employee differently than the non-bargaining unit employees, who received a 3-1/2% wage increase at the start of 2008. In addition, comparable jurisdictions continue to provide 3% wage increases for each year of their new contracts. Thus, Reynoldsburg employees should receive 3-1/2% during 2008 and the 3% per year for each of the remaining two years. The lower paid employees, in an effort to catch them up to the market, will each receive an additional 2% per year for each of the 3 years of the Agreement. These ten employees, designated by the Union in Union exhibit 1, should receive a 5-1/2% increase retroactive to January 1, 2008, 5% in 2009 and 5% in 2010. While this will not catch them up to the market, it will help them come closer to current market rates without strapping the City financially.

II. Longevity Pay

Union Position

The Union contends that its employees are entitled to greater longevity pay because comparable employees in other jurisdictions receive higher longevity pay. The Union proposes that the following schedule apply: four through six years: \$750.00; seven through ten years:

\$900.00; eleven through fourteen years: \$1,150.00; fifteen through nineteen years: \$1,350.00; and twenty or more years: \$1,500.00.

Employer Position

The Employer proposes to incorporate the current longevity pay – the same longevity pay that non-bargaining unit employees enjoy. The Employer's proposal is as follows: six to nine years: \$450.00; ten to fourteen years: \$500.00; fifteen to nineteen years: \$550.00 and twenty years or more: \$600.00. The Employer asserts that the Union's proposal would represent a 67% increase in longevity pay at the first level and a 150% increase at the top level.

Recommendation: The fact-finder recommends adoption of a longevity pay scale more comparable to that utilized by the Reynoldsburg Police, although longevity would begin on the fifth anniversary date of the employee's work rather than the fourth anniversary date, and the completed years of service will be slightly different (and more consistent with the longevity scales in comparable jurisdictions). Thus, following the employee's anniversary date, an employee's paycheck will reflect the following: an employee completing five to nine years: \$700.00; ten to fourteen years: \$900.00; fifteen to nineteen years: \$1,350.00 and twenty or more years: \$1,500.00.

In Westerville, based on a 2006-09 collective bargaining agreement, the longevity pay in 2008 is: five to nine years: \$800; ten to fourteen years: \$1100; fifteen to nineteen years: \$1400; and twenty or more years: \$1650. In addition, in Westerville, in 2009, each annual longevity payment for each category will increase by \$50.00. In Gahanna, in 2008, the longevity scale is: five to ten years \$800; ten to fifteen years: \$1000.00; fifteen to twenty years: \$1250 and twenty or more years \$1450. In addition, in 2009 each of these amounts will increase by twenty-five dollars per year. In Hilliard, as of 2006, the longevity scale paid \$450 for members who have five years of service. After five years of service, employees receive an additional \$90 per year for each year of service until they reach \$1650. Although the Union also submitted

evidence from Dublin, the fact-finder rejects Dublin in this context as a comparable jurisdiction due to its size and wealth.

In Reynoldsburg, as mentioned above, non-bargaining unit employees receive longevity pay in the same amount that the City proposes here. The Reynoldsburg police receive (as of January 1, 2008) \$700 for four to six years; \$800 for seven to nine years; \$1000 for ten to fourteen years; \$1150 for fifteen to nineteen years and \$1250 for 20 or more years.

The external comparables point toward a much higher longevity scale than the City has offered. Even the police department's collective bargaining agreement provides lower longevity pay than does comparable jurisdictions. In light of the strong comparable evidence, but taking into consideration the City's limited ability to pay as well as what the City pays its police department and its other, non-bargaining workers, the fact-finder recommends adoption of a longevity pay scale similar to the one that the Reynoldsburg police currently enjoy. While this scale is still less than what the comparable jurisdictions offer, it is consistent with the internal comparables and acknowledges the uncertainty of the financial picture currently facing cities throughout Ohio.

III. Fair Share

Union Position

The Union proposes a fair share provision that requires, as a condition of employment, all employees to pay to the Union a "fair share" fee. This fair share fee will not exceed the amount of dues paid by Union members in the bargaining unit. The fair share fee would be automatically deducted by the City from each bargaining unit member's check who is not a

member of the Union. The Union contends that its fair share proposal is consistent with the collective bargaining agreements from comparable jurisdictions.

Employer position

The Employer objects to the adoption of a fair share provision. The Employer believes that every employee should have a choice regarding whether or not to support the union.

Recommendation: The Fact-finder recommends the adoption of the Union's fair share proposal, union exhibit four. The provision states: A. Bargaining Unit members who are not members of the Union, shall as a condition of employment, pay to the Union a fair share fee. The amount of the fair share fee shall be determined by the Union, but shall not exceed dues paid by members of the Union who are in the Bargaining Unit. Such fair share fee shall be certified by the Union to the City prior to the first day of the Contract and at such times during the term of this Contract as necessary to be accurate. Such payment shall be subject to an internal Union rebate procedure meeting all requirements of state and federal law. B. For the duration of this Contract, such fair share fee shall be automatically deducted by the City from the payroll check for each Bargaining Unit member who is not a member of the Union. The automatic deduction shall be made in the first pay period of each month. The City agrees to furnish to the Financial Secretary of the Local Union once each month, a warrant in the aggregate amount of the fair share fees deducted from that calendar month, together with a listing of the Bargaining Unit members for whom said deductions are made.

The Union's proposed comparable jurisdictions – Westerville, Gahanna and Hilliard (Dublin once again is excluded although it has a comparable fair share provision as well) all adopt virtually identical fair share provisions. Because the fact-finder is obligated to consider what comparable jurisdictions do with respect to this issue, the fact-finder must recommend, in the absence of other evidence, that the parties adopt the Union's proposed fair share provision, Union Exhibit 4.

This concludes the Fact Finder's Report and Recommendations.

Respectfully submitted

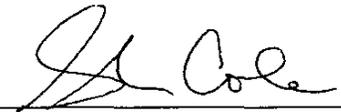
A handwritten signature in cursive script, appearing to read "Sarah Rudolph Cole", written over a horizontal line.

Sarah Rudolph Cole, Fact Finder

Columbus, Ohio
October 1, 2008

Certificate of Service

This is to certify that a true copy of the Fact-Finding Award for the Delaware County Sheriff and the OPBA was sent to the parties by electronic and regular mail and to the State Employment Relations Board by regular U.S. mail on this day, October 1, 2008. The Fact-Finding Award was served upon: Billy Boyce, United Steelworkers, AFL-CIO-CLC, via e-mail and U.S. Mail at bboyce@usw.org and 777 Dearborn Park Lane, Suite J, Columbus, Ohio 43085 and Marc Fishel at mfishel@dhflaw.com and Downes, Hurst and Fishel, 400 Fifth Street, Suite 200, Columbus, OH 43215 and Administrator, Bureau of Mediation, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213.



Sarah Rudolph Cole, Fact Finder