

IN THE MATTER OF FACT FINDING

EMPLOYMENT
RELATIONS BOARD

BETWEEN

2009 MAR -6 P 1:57

THE STARK-TUSCARAWAS-WAYNE JOINT SOLID WASTE DISTRICT

AND

**THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL UNION NO. 92**

SERB CASE # 08-MED-10-1221

ADVOCATE FOR THE DISTRICT:

**Howard D. Heffelfinger, VP
CLEMANS NELSON & ASSOCIATES, INC.
6500 Emerald Parkway, Suite 100
Dublin OH 43016-6235**

ADVOCATE FOR THE UNION:

**Susan D. Jansen, Esq.
DOLL, JANSEN & FORD
111 West First Street, Suite 110
Dayton OH 45402-1156**

**Robert D. Jackson, President
TEAMSTERS LOCAL UNION 92
1127 9th Street S.W.
Canton OH 44707**

INTRODUCTION

The bargaining unit is represented by the Teamsters Local 92 (Hereinafter "Union" or "Teamsters") and the Employer is the Stark-Tuscarawas-Wayne Joint Solid Waste Management District (hereinafter "Employer" or "District"). The bargaining unit contains approximately five (5) part or full time driver/operators. This is the first contract between the parties. The parties held several negotiation sessions prior to fact-finding and were able to resolve a large number of issues. However, not all issues were able to be settled, which led to fact finding.

A mediation/fact-finding hearing was held on February 3, 2009 over the issues addressed in this report. Prior to a formal submission of evidence, the fact-finder made a concerted effort to reconcile the differences between the parties over the unresolved issues listed above. Settlement possibilities were explored with the parties in an effort to find common ground upon which to construct a settlement. Even though the parties were able to reach a better understanding regarding their differences during mediation, a tentative agreement was not reached. Both advocates represented their respective parties well and clearly articulated the position of their clients on the issues in dispute. Following fact finding and by mutual agreement both advocates submitted post

hearing briefs in support of their positions. The Employer's and the Union's position statements are attached to this report and for purposes of efficiency will be referenced and not restated in the body of this report. Under each issue the parties' respective positions shall be referred to in this report as simply EP, Employer's position, and UP Union's position.

OVERALL RATIONALE FOR RECOMMENDATIONS

Since September of 2008 the current state of the national and state economy has become a daily topic of conversation. Ohio's economy remains uncertain as does the financial outlook for many states. Recently Governor Strickland outlined the considerable magnitude of Ohio's revenue shortfall both in the current and next biennium budgets, and the necessity of having to take decisive action to reduce costs in order to balance the state's budget. This cost cutting will most likely result in layoffs (or reductions by attrition) of state employees in a variety of agencies. Adding to these issues is the overall impact of a national economy in prolonged recession with little certainty of its length or breadth. Nationally major employers almost on a weekly basis continue to announce layoffs that number in the tens of thousands. Approximately 600,000 jobs were lost in January of 2009 alone. Moreover, the woes of the domestic auto industry and its potential direct and secondary affect

on jobs in Ohio continues to loom large as the auto industry attempts to weather the economic times with the help of congressional loan relief. Compounding the problem of job losses is the credit crunch and its impact upon housing values.

However, the overall extent to which these serious financial conditions impact the District is unclear. Various public sector entities in the state are fairing differently, and as of this writing it is not clear what benefits the recently passed congressional economic stimulus package as well as the new state budget will eventually have upon the District. One must be careful in generalizing the likelihood of "economic woes" for every employer. The sources of revenue for the District are unique to its function. Furthermore, it is axiomatic that the delivery of quality service depends on recruiting and retaining quality employees, which includes bargaining unit, non-bargaining unit, and managerial employees. Central to maintaining a quality workforce is the maintenance of a competitive wage structure that provides a fair wage for skills, along with quality benefits, and a reasonable working environment even in trying times.

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:

Issue 1	Wages (Including Scale, Wage Increase, Longevity, and Shift Differential)
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Employer's Position

See EP

Union's Position

See UP

Discussion

The District was formed as a result of an agreement reached by three counties, Stark, Tuscarawas, and Wayne. Employees from these separate jurisdictions were combined into this new solid waste management entity to better serve the citizens of these three counties. During the mediation/fact finding process there was agreement between the parties regarding the vital service the District provides and the high quality of work performed by the employees in the bargaining unit. It is common when bringing employees from different jurisdictions together into a single classification for inequities in pay to result. In their prior employment employees have varying benefits and pay based upon three separate systems. This appeared to be the case in the instant matter and both parties recognized a need to address this issue during fact finding. In addition, after the forming of the District and comparing it to other like jurisdictions, it became clear that the pay scale needed to be revised in terms of its overly broad range of pay from the bottom to the top of the scale.

The Employer proposes a narrowing of the differences from the bottom to the top of the range in order for the District to remain competitive in the industry. It is proposing a range from \$13.50 per hour to \$18.50 per hour. The Union's position in terms of the range of the scale is similar to what is being proposed by the Employer, but it differentiates between the pay rates for part-time versus full-time employees. (See UP) The Union also

rates for part-time verses full-time employees. (See UP) The Union also points out that there exist inequities in pay when considering years of service.

The Employer opposes the inclusion of longevity pay, while the Union proposes the establishment system built upon years of service. Both parties proposed a shift differential for any hours worked beyond the normal workday or on weekend days.

The wage scale needs to be compressed and the Employer's proposal has the most appeal in terms of competitiveness. The one percent (1%) annual pay increase proposed by the Employer, absent evidence of extenuating circumstances, is too low, when compared to other jurisdictions. The proposed increase by the Union of two and one-half percent (2.5%) is supported by the evidence; however, a differentiation in pay for part time verses full time is not justified. The Union's argument regarding an inequity in the middle of the range is persuasive with regard to one set of employees with similar years of service. The evidence does not support the establishment of a longevity system at this time, due to importance of maximizing available resources into a new scale, a reasonable annual increase in pay, and the establishment of a shift differential that provides some compensation for working odd hours.

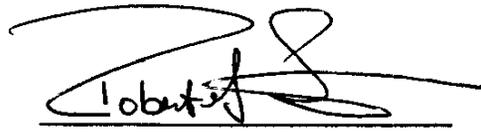
Determination:

A new pay range shall be established that ranges from \$13.50 per hour to \$18.50 per hour. Any employee who is currently below the starting pay shall be placed in the starting rate of pay. The lower end of the pay range and each employee in the range shall receive a 2.5% increase each year of the Agreement retroactive to January 3, 2009. (See Recommended Wage Scale language and Wage Scale)

TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues, copies of which they have retained. These tentative agreements, on all or portions of articles, and any language recommended to change and or remain current are all part of the recommendations contained in this report. Any issues, or sub-issues not specifically addressed are also intended to remain current language for purposes of this report.

The Fact-finder respectfully submits the above recommendations to the parties this 3rd day of March 2009 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

ARTICLE _____
WAGES

Section .1. Bargaining unit employees shall be assigned to a pay range. Effective January 3, 2009, the pay range set forth below shall go into effect. (See Wage Scale):

	<u>Minimum</u>	<u>Maximum</u>
Driver/Operator	\$13.50/hr.	\$18.50/hr.

Section .2. Effective January 2, 2010, the pay range set forth below shall go into effect:

	<u>Minimum</u>	<u>Maximum</u>
Driver/Operator	\$13.71/hr.	\$18.50/hr.

Section .3. Effective January 1, 2011, the pay range set forth below shall go into effect:

	<u>Minimum</u>	<u>Maximum</u>
Driver/Operator	\$13.92/hr.	\$18.50/hr.

Section .4. Employees who are actively employed as of the execution of this agreement and are at the bottom of the scale shall be brought to the minimum of the scale. All other employees who are actively employed as of the execution of this Agreement, shall receive an across the board adjustment of two and one-half percent (2.5%) per hour to their existing hourly rate of pay (after the application of an inequity modification), provided that said adjustment does not increase their hourly rate of pay beyond the maximum hourly rate for the pay range of their job classification. Said adjustment shall become effective with the pay period beginning on January 3, 2009.

Section .5. Employees who are actively employed as of the execution of this Agreement, shall receive an across the board adjustment of two and one-half percent (2.5%) per hour to their existing hourly rate of pay, provided that said adjustment does not increase their hourly rate of pay beyond the maximum hourly rate for the pay range of their job classification. Said adjustment shall become effective with the pay period beginning on January 2, 2010.

Section .6. Employees who are actively employed as of the execution of this Agreement, shall receive an across the board adjustment of two and one-half percent (2.5%) per hour to their existing hourly rate of pay, provided that said adjustment does not increase their hourly rate of pay beyond the maximum hourly rate for the pay range of their job classification. Said adjustment shall become effective with the pay period beginning on January 1, 2011.

Section .7. Employees who are not eligible for increases in accordance with Sections 4, 5, and 6 of this article as a result of being beyond established maximums shall receive a one (1) time lump sum equal to the amounts identified in Sections 4, 5, and 6 of this article each contract year. Employees who do not receive the full percentage amount identified in Sections 4, 5, and 6 as a result of reaching the maximum for their pay range shall receive any balance in a lump sum payment, in accordance with this section. Said payments shall be paid no later than third payroll of each year they may be due. Such lump sum settlements shall be subject to all applicable deductions.

Section .8. In addition to the wage rates provided for above, employees covered by this Agreement shall receive payment of a weekend and shift differential as follows:

Any employee who works more than one-half of his regularly scheduled shift after 5:00 p.m. on any weekday or, more than one-half of his regularly scheduled shift on any Saturday or Sunday shall be paid an additional twenty cents (\$0.20) per hour for all the hours of his shift.

Wage Scale

(Year 1)

Employee	Current Annual Salary	Annual Salary (2.5% increase)					
Klar*	\$13,156	\$15,444					
Rayner*	\$25,001	\$28,080					
McGrew**	\$31,928	\$32,726					
Kiskadden	\$31,928	\$32,726					
Frost	\$37,211	\$38,141					

(Year 2)

Employee	Current Annual Salary	Annual Salary (2.5% increase)	Lump sum pay for exceeding range				
Klar	\$15,444	\$15,830					
Rayner	\$28,080	\$28,782					
McGrew	\$32,726	\$33,544					
Kiskadden	\$32,726	\$33,544					
Frost ⁺	\$38,141	\$38,480	\$614				

(Year 3)

Employee	Current Annual Salary	Annual Salary (2.5% increase)	Lump sum pay for exceeding range				
Klar	\$15,830	\$16,226					
Rayner	\$28,782	\$29,501					
McGrew	\$33,544	\$34,382					
Kiskadden	\$33,544	\$34,382					
Frost ⁺	\$38,480	\$38,480	\$961				

* employees brought to start rate of scale prior to increase

**inequity adjustment

+ lump sum pay if wage increase causes employee to exceed scale



CONSULTANTS TO MANAGEMENT

January 16, 2009

Robert G. Stein, Fact-Finder
265 W. Main Street, Ste. 102
Kent, Ohio 44240-2403

RE: SERB Case No. 2008-MED-10-1221
Stark-Tuscarawas-Wayne Joint Solid Waste Management District and IBT Local
92

Dear Fact-Finder Stein:

Pursuant to Ohio Revised Code Section 4117.14 and 4117-9-05(F) of the Ohio Administrative Code, the Employer's representative respectfully submits the following information relative to the fact-finding hearing scheduled for January 13, 2009.

1. The Employer is the Stark-Tuscarawas-Wayne Joint Solid Waste Management District. The principal representative is Mr. Howard Heffelfinger, 6500 Emerald Parkway, Suite 100, Dublin Ohio, 43016 (telephone number 614-923-7700).
2. The bargaining unit is comprised of regular part-time and full-time drivers/operators. There are approximately five (5) employees in the bargaining unit.
3. These negotiations are for an initial collective bargaining agreement.
4. Following is the Employer's position on the unresolved issue:

Wages

The Employer is proposing a finite pay scale to bring the bottom wage and top wage rate closer together while remaining competitive in the industry for the positions at issue. Currently there is a \$6.39 range from the starting hourly wage rate of \$11.50 to the top hourly wage rate of \$17.89. The Employer is proposing a pay scale starting hourly wage rate of \$13.50 and a top hourly wage rate of \$18.50. Any employee currently below the

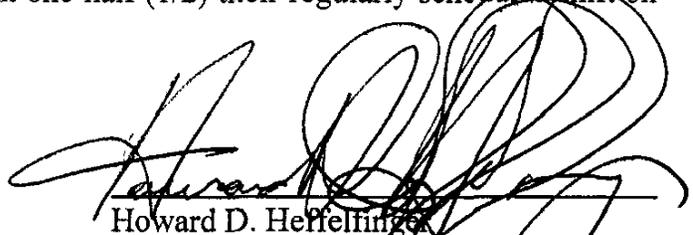
Robert G. Stein, Fact-Finder

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January 16, 2009

\$13.50 hourly rate would be increased to \$13.50 and all employees would receive a one percent (1%) increase in each year of the Agreement. In addition, the starting hourly wage rate on the scale would increase by one and one-half percent (1.5%) each year of the Agreement while the top hourly rate would remain fixed at \$18.50. Any yearly percentage increase that would put an employee over the top hourly wage rate would be computed on a yearly work schedule of 2,080 hours and paid to the employee as a lump sum.

In addition, the Employer is proposing to pay a twenty cent (\$0.20) per hour differential to employees who work more than one-half (1/2) of their regularly scheduled shift after 5:00 p.m. on any weekday or, more than one-half (1/2) their regularly scheduled shift on any weekend day.



Howard D. Heffelfinger
Executive Vice President
Clemans, Nelson & Associates, Inc.
6500 Emerald Parkway, Suite 100
Dublin, Ohio 43016
614-923-7700

Representative for the Employer

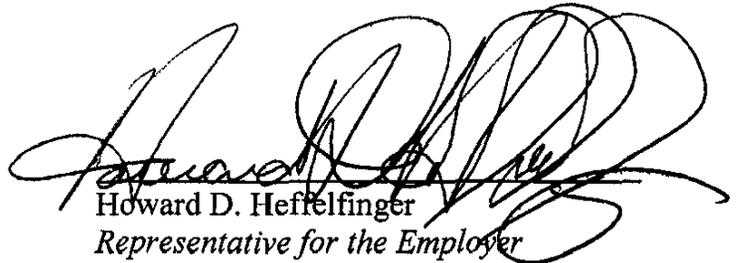
Robert G. Stein, Fact-Finder
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January 16, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this fact-finding submission was sent via UPS to the following on this 16th day of January 2009:

Robert G. Stein, Fact-Finder
265 W. Main Street, Ste. 102
Kent, Ohio 44240-2403

Susan D. Jansen, Esq.
DOLL, JANSEN & FORD
111 West First Street, Suite 1100
Dayton, Ohio 45402-1156
Counsel for the Union



Howard D. Heffelfinger
Representative for the Employer

ARTICLE 30 **WAGES**

Section 1. Wages

Effective January 3, 2009 the starting rate for all full time driver/operators shall be \$15.00 per hour and the starting rate for all part time driver/operators shall be \$13.50 per hour.

Effective January 2, 2010, the starting rate for all full time driver/operators shall be \$15.23 per hour and the starting rate for all part time driver/operators shall be \$13.71 per hour.

Effective January 1, 2011, the starting rate for all full time driver/operators shall be \$15.46 per hour and the starting rate for all part time driver/operators shall be \$13.92 per hour.

The maximum pay range for a full time driver/operator during this Agreement shall be \$18.50 per hour.

All full time and part time driver/operators making less than the starting rate of pay shall, effective January 3, 2009, immediately receive the starting rate of pay indicated above and thereafter shall receive a 2.5% increase added to their base rate of pay effective January 2, 2010 and 2.5% added to their base rate of pay effective January 1, 2011.

All full time driver/operators currently making between \$15.14 and \$15.35 per hour shall receive an equity adjustment to \$16.35 per hour effective January 3, 2009. The employees who receive the equity adjustment will then receive a 2.5% increase added to the \$16.35 per hour also effective January 3, 2009. Thereafter, these employees will receive a 2.5% increase added to their base rate of pay effective January 2, 2010 and January 1, 2011.

All other employees will receive a 2.5% added to their base rate of pay effective January 3, 2009, January 2, 2010, and January 1, 2011, provided that said adjustment does not increase their hourly rate of pay beyond the maximum hourly rate for their classification. Employees shall receive the percentage pay increase until they reach the maximum pay for their classification and, thereafter, the employees shall receive any balance above the pay range in a lump sum payment. Such payment shall be due no later than the third pay of the year in which it is due.

Section 2. Longevity pay

In addition to the wages provided in Section 1, every employee covered by this Agreement shall receive a lump sum payment based upon their seniority date as follows:

Employees who have completed five (5) years, but less than ten (10) years of service shall receive a payment of one-half percent (0.5%) of their base rate of pay.

Employees who have completed ten (10) years, but less than fifteen (15) years of service shall receive a payment of one percent (1.0%) of their base rate of pay.

Employees who have completed fifteen (15) years, but less than twenty (20) years of service shall receive a payment of one and one-half percent (1.5%) of their base rate of pay.

Employees who have completed twenty (20) or more years of service shall receive a payment of two percent (2.0%) of their base rate of pay.

The above payments shall be paid in a lump sum on the first payday of November each year. When an employee's anniversary date occurs prior to November 1st of a payment year, he/she shall receive full payment in accordance with the above payment schedule.

For the purpose of determining eligibility for the payment provided in this Section, an employee shall be credited with a complete month of service if he/she works or is on paid leave one-half (1/2) or more of his/her scheduled work days in one (1) month. In the event that an employee who is eligible for the above payment terminates his/her employment during the term of this Agreement, the annual payment provided herein shall be pro-rated for the period of his/her employment.

Section 3. Weekend and Shift Differential

In addition to the wage rates provided above, employees covered by this Agreement shall receive payment of a weekend and shift differential as follows: Any employee who works more than one-half of his regularly scheduled shift after 5:00 p.m. on any weekday or, more than one-half of his regularly scheduled shift on any Saturday or Sunday shall be paid an additional twenty cents (\$0.20) per hour for all the hours of his shift.

FOR THE EMPLOYER

FOR THE UNION
