STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Fact-Finding between

HAMILTON COUNTY BOARD OF COMMISSIONERS, Employer	)	CASE NO. 2014-MED-06-0853
-and-	)	JEFFREY A. BELKIN FACT-FINDER
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 20, Union	)	

REPORT AND RECOMMENDATIONS

This matter was heard on February 10, 2018 at Cincinnati, Ohio. The parties' representatives are listed below:

For the Union:

RICK GERREIN	BUSINESS MANAGER
JERRY BRADLEY	06 - MRW 2
JOHN GILBERT	MRW 2

For the Employer:

DAVID HELM	ASSISTANT DIRECTOR, HUMAN RESOURCES
RALPH LINNE	DIRECTOR COUNTY FACLITIES
ANTHONY K. MATRE	ASSISTANT DIRECTOR, COUNTY FACILITIES

I. BACKGROUND

The effective dates of the most recent Agreement between the parties ("the Agreement") were October 11, 2011 through September 30, 2014.

According to Article I, Sec. 1.1 of the Agreement, the recognized bargaining unit consists of two classifications: Maintenance Repair Worker 1 and Maintenance Repair Worker 2. During the pendency of the Agreement the parties added the additional classification of Groundskeeper to the unit, carrying the same pay rate range as Maintenance Repair Worker 1. Currently there are approximately 13 employees in the unit.

It is also noted that the Employer recognizes another bargaining unit represented by the Union ("IUOE Local 20"), consisting of HVAC and Facility Maintenance Workers. This fact is crucial, because in 2014 the Employer and IUOE Local 20 concluded a three-year agreement covering that unit (hereafter the "Facilities Maintenance Agreement"), the provisions of which bear on all three issues in dispute in this proceeding.

Prior to fact-finding the parties reached tentative agreement on 29 articles for a new Agreement, which are listed below with the appropriate recommendation.

II. FACT-FINDER'S REPORT

In reaching the Findings and Recommendations on the three disputed issues, the undersigned has considered the parties' pre-hearing statements, oral presentations, exhibits and other materials. Also taken into account were the factors mandated by statute:

Past collectively bargained agreements, if any, between the parties;

Comparison of the unresolved issues in comparison to the employees

in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

The interests 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;

The lawful authority of the public employer;

Any stipulations of the parties;

Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

III. UNRESOLVED ISSUES

A. Introduction

There are three unresolved issues:

Article 3 Dues Deduction

Article 14 Wages

Article 40 Duration

Before dealing with those issues, the undersigned believes that several comments are in order.

The ostensible purpose of fact-finding is the resolution of contract issues the parties were unable to resolve by themselves through collective bargaining. In other words, fact-finding results from the failure of the parties to resolve their disputes through the collective bargaining process. In the private sector, such failures ("impasses") are resolved through

economic action; but the authors of ORC Chapter 4117 sought to prevent or forestall public sector strikes/lockouts by requiring "fact finding" as a preliminary step. While that objective was certainly laudable, the institution of the fact-finding process has created other problems.

The foremost of these, again in the opinion of the undersigned, is the designation of an outsider (sometimes from out of state), having no stake in the outcome, with very broad authority to essentially dictate the terms of public sector labor agreements. This sort of arrangement has often led to unfortunate results for the affected public sector employers and their employees, and the tax-paying public. The undersigned is of the view that the proper role of a fact-finder is not necessarily to craft a recommendation of what he or she considers to be "right" or "fair;" but rather, to recommend a result that appears to be closest to the outcome the parties would have reached by themselves had the negotiations reached their logical ending point. The practical result of this view is that in fact-finding, the most important comparators are internal, namely the contract terms reached by that particular employer with other bargaining units (if such comparisons are available). Where a pattern of settlements has been established ***within*** a public sector employer, therefore, the undersigned is inclined to follow the pattern in the absence of compelling evidence that would justify deviation therefrom.

B. Article 3 Dues Deduction

Union proposal

ARTICLE 3
DUES DEDUCTION

Section 3.1. The Employer agrees to deduct Union membership dues in accordance with this Article for all employees eligible for the bargaining unit upon the successful completion of their individual probationary periods.

Section 3.2. The Employer agrees to deduct regular Union membership dues on a biweekly basis from the pay of any employee in the bargaining unit eligible for membership upon receiving an approved written authorization signed individually and voluntarily by the employee. Upon receipt of the proper authorization, the Employer will deduct Union dues from the payroll check for the next pay period in which dues are normally deducted following the pay period in which the authorization was received by the Employer.

Section 3.3. The parties agreed that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of Union dues. The Union hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 3.4. The Employer shall be relieved from making such individual "check-off" deductions upon an employee's (1) termination of employment, (2) transfer to a job other than one covered by the bargaining unit, (3) layoff from work, (4) unpaid leave of absence, (5) revocation of the check-off authorization in accordance with the terms of this Agreement, or (6) resignation from the Union.

~~Section 3.5 Effective sixty (60) calendar days following employment, any employee who voluntarily submits a dues check-off authorization and who thereafter revokes such authorization shall pay to the Union, through payroll deduction, an agreement administration fee for the duration of this Agreement. The agreement administration fee is automatic and does not require the employee to remain a member of the Union nor shall the agreement administration fee exceed the dues paid by bargaining unit employees who are members of the Union. The agreement administration fee shall comply with all provisions of Ohio Revised Code Section 4117.09 (C) and Ohio Administrative Code Section 4117-11-01. Within thirty (30) calendar days following the effective date of this Agreement, the Union shall certify to the Employer in writing the amount of the agreement administration fee. Any change in the amount of the agreement administration fee must be provided to the Employer in writing no less than sixty (60) calendar days prior to the effective day of such change.~~

Section 3.5. On the effective date of this Agreement, those employees within the bargaining unit who do not sign individual dues checkoff authorizations within the first sixty (60) days of regular employment shall pay to the Union, through payroll deduction, a fair share fee to the Union for the purpose of representation and collective bargaining. The fair share fee is automatic and does not require the employee to become a member of the Union nor shall the fair share fee exceed he dues paid by bargaining unit employees who are members of the Union. The fair share fee shall comply with all provisions of the Ohio Revised Code Section 4117.09 (C) and Ohio Administrative Code Sections 411-11-01. Within thirty (30) calendar days following the effective date of this Agreement, and by October 1st of each subsequent year of this Agreement, the Union shall certify to the Employer, in writing, the amount of the fair share fee. Upon such certification by the Union, the Employer shall deduct the amount of the fair share fee from the pay of each employee obligated to pay the fee and remit the fee to the Union in accordance with Section 3.1 of this Article. Any changes in the amount of the fair share fee must be provided to the Employer, in writing, no less than sixty (60) calendar days prior to the effective date of such change. The Union agrees to reimburse the Employer for any of its attorney's fees or other costs arising from any claims, demands, actions, complaints, suites [sic] or other forms of litigation or actions taken by the Employer for the purpose of complying with the provisions of this paragraph with respect to the collection of fair share fees, or in reliance on any list, notice, certification, affidavit or assignment furnished under any of such provisions by the Union. If the Union is a party, the Union's counsel shall be lead counsel during any litigation or arbitration concerning the fair share fee. The Employer and the Union agree that both parties share the duty of establishing and maintaining a valid fair share fee procedure.

The Union's agreement to reimburse the Employer for its attorney's fees and costs is quid pro quo for the Employer's agreement to this paragraph and its agreement to deduct fair share fees and Union dues.

Section 3.6. The Employer agrees to notify and provide to the Union the name, address, and classification of any new employee hired into a classification covered by this bargaining agreement, as soon as reasonably possible after the employee is hired.

Employer proposal

The Employer rejects the Union Proposal and proposes to maintain current contract language.

Positions of the Parties

Union

As set forth in its position statement:

The County currently has six bargaining units with Fair Share provisions in their bargaining agreements (4 with the FOP, 1 with BEHCS and 1 with AFSCME). The Union proposes a Fair Share provision in which non-members will pay a fair share fee for representation the Union is legally obligated to provide to all members of the bargaining unit even if they do not pay dues. While the Union respects such persons' rights and beliefs, there is a cost incurred by the Union for providing a service to individuals who choose not to join the Union, yet who enjoy the same benefits the Union bargains for on their behalf. It is unfair for our members to bear the burden of this cost alone.

Employer

As set forth in its position statement:

The Employer proposes maintaining current contract language for this Article. The Union proposes new language that would allow for Fair Share for all bargaining unit staff.

Currently, only six (6) of the twelve (12) employees in this unit pay dues. Of the six that pay, three signed up at the end of July, 2014 just prior to the beginning of this most recent negotiation. The Employer feels this demonstrates the Union has the ability to sign up members without having to require membership in the Union. Further, just over one half of the employees voluntarily desire to be members of the Union. The Union has not articulated why this Union, as opposed to other Unions, should have a fair share requirement.

There are five (5) non-conciliatory bargaining units under the Board of County Commissioners. Only one, Job and Family Services, has fair Share language in the contract. This came about in 2003 when the then 1000+ member unit was preparing to go out on strike. No other Board strike units currently have strict fair share language. Ironically, a second IUOE unit that represents HVAC and Facility Maintenance Workers under the Board approved a contract in August that did not include fair share language. That particular IUOE group had nineteen (19) employees within the unit, seventeen (17) of which were dues paying members.

The Employer is not inclined to negotiate fair share fees, and the Union membership has not demonstrated a desire to be required to be dues paying union members. Finally, Fair Share provisions should be negotiated between parties to a contract, not imposed by a neutral.

Findings and Recommendation

The issue of "fair share" is critical to labor unions, guided by the principle that if all members of a group are entitled to receive the same services, they all should pay their "fair share" of the cost for such services. In City of St. Mary's and OPBA, 12-MED-0944 (December

12, 2012), presented as an exhibit by the Union, fact-finder Slonaker stated the principle as follows:

> Dues, including fair share, is one of the foundation stones for a union to effectively represent both its dues-paying members and all other members of its bargaining unit. Asking a union to perform its duties without a reliable source of funding from its beneficiaries is analogous to asking a city, county or other government entity to meet its service obligations with funding totally reliant on residents voluntarily choosing to contribute and then following through by voluntarily mailing a check.

The Union also presented as comparators, a series of labor agreements that include "fair share" provisions:

> Hamilton County Board of Commissioners/AFSCME Ohio Council 8, Local 1093 (Field Operations Division)
>
> Hamilton County Sheriff/FOP
> (Sergeants and Lieutenants, Patrol Division, etc.)
>
> Hamilton County Sheriff/FOP
> (Laundry and Maintenance Workers)
>
> Hamilton County Sheriff/FOP
> Enforcement Officers)
>
> Hamilton County Sheriff/Hamilton County Corrections Officers Assoc
> (Corrections Officers)
>
> University of Cincinnati/Internatl. Union of Operating Engineers, Local 20
>
> Cincinnati State Technical and Community College/ Internatl. Union of Operating Engineers, Local 20
>
> Cincinnati Metropolitan Housing Authority/Internatl Union of Operating Engineers, Local 20

The Employer offered as exhibits, several agreements that do not contain mandatory "fair share" provisions:

Hamilton County Commissioners/Greater Cincinnati Building & Construction Trades

Hamilton County Commissioners/ AFSCME Ohio Council 8, Local 1093 (Field Operations Division)

Hamilton County Commissioners/Internatl. Union of Operating Engineers, Local 20

Other facts presented by the Employer have an important bearing on this matter. Thus the Employer points out that Hamilton County has only one "non-conciliatory" agreement (i.e. safety forces) containing mandatory fair share: the AFSCME agreement covering the Department of Job and Family Services. Next the Employer states that only 6 of the 12 (or 13) members of the bargaining unit in this matter have voluntarily opted to sign up as dues-paying union members.

Finally, the Employer points to the other bargaining unit of county employees (HVAC and Facility Maintenance) represented by IUOE Local 20. That unit is larger than the unit involved herein (19 employees), of which 17 are dues-paying members; but there is no mandatory fair share provision in the Facilities Maintenance Agreement. Therefore, while the various agreements submitted by the Union, listed above, represent significant comparators, the closest internal comparator – the Facilities Maintenance Agreement – tends to support the Employer's position. That is, other than the AFSCME agreement covering the Department of Job and Family Services there are no "non-conciliatory" bargaining units with mandatory fair share. To sum up the controlling facts, if fair share were instituted in this IUOE

Local 20 unit covering maintenance repair workers, a clear disparity would be created with the larger IUOE Local 20 unit, which does not include fair share.

Regarding the Employer's contention that the nature of a "fair share" provision is such that it should be negotiated by the parties (i.e., a matter of mutual agreement), rather than "imposed by a neutral;" the undersigned tends to concur with that view. "Fair share" does not represent an economic term and condition of employment that is a mandatory subject of bargaining. Rather, it is a condition of employment requiring employees to pay for a service (union representation) that they may not want. While fair share does not add to an employer's cost structure, it clearly would alter the balance of economic leverage in favor of the union, enhancing the union's bargaining power. Thus if an employer is agreeable to that outcome, for whatever reason, well and good. But such a shift should be resolved directly between the parties at the bargaining table.

While the undersigned agrees in principle with the Union's contention (as ably enunciated in Mr. Slonaker's opinion, quoted above) that every employee should pay for representation services, the overriding question in this proceeding is whether the particular facts warrant a deviation from the pattern of the Employer's rejection of fair share in "non-conciliatory" bargaining units. Especially in view of the fact that barely half of the employees in the maintenance repair unit have voluntarily chosen to be dues-paying members, the necessary conclusion is that there were not sufficient facts presented to warrant the inclusion of "fair share" in Article 3 of the New Agreement.

Therefore the Employer's proposal is recommended.

C. Article - 14 Wages

Union Proposal

Section 14.1. Effective on the pay period which includes October 1, 2014 the pay range of all bargaining unit employees shall be as follows:

CLASSIFICATION	HOURLY
Maintenance Repair Worker 1	15.36
Maintenance Repair Worker 2	16.58
Groundskeeper	16.58

As of the effective date of this agreement, the current pay rates for each individual employee covered by this agreement remains the established hourly rate for that employee until such a time that pay increases are awarded as described in Section 14.2 below

Section 14.2. Wages for contract years 2015, and 2016 (from effective date of this agreement on) bargaining unit employees shall receive the same increase approved by the Hamilton County Board of County Commissioners (HCBCC) for non-bargaining unit employees of the Hamilton County Board of County Commissioners (except those employees with individual employment contracts). Such increase shall be effective on the same date as for non-bargaining unit employees of the HCBCC.

Employer Proposal

Section 14.1. Effective on the pay period which includes ~~January~~ October 1, 2014 the hourly pay for all bargaining unit employees shall increase by 3%. The pay range of all bargaining unit employees shall be as follows:

CLASSIFICATION	MIN. HOURLY	MAX. HOURLY
Maintenance Repair Worker 1	~~13.17~~ 13.70	~~18.48~~ 19.18
Maintenance Repair Worker 2	~~14.33~~ 14.92	~~20.00~~ 20.88
Groundskeeper	~~14.33~~ 14.92	~~20.00~~ 20.88

As of the effective date of this agreement, the current pay rates for each individual employee covered by this agreement remains the established hourly rate for that employee until such a time that pay increases are awarded as described in Section 14.2 below.

Section 14.2 Wages for contract years 2011, 2015, and 2016 bargaining unit employees shall receive the same increase approved by the Hamilton County Board of County Commissioners (HCBCC) for non-bargaining unit employees of the Hamilton County Board of

County Commissioners (except those employees with individual employment contracts). Such increase shall be effective on the same date as for non-bargaining unit employees of the HCBCC.

Positions of the Parties

Union

As set forth in its position statement:

The Union proposes a wage for Maintenance Repair Worker 1 of $15.36, for Maintenance Repair Worker 2 and Groundskeeper of $16.58 beginning October 1, 2014 and a "me too" clause for the years 2015 and 2016. The CBA currently provides a salary range of a minimum hourly rate of $14.79 to a maximum of $20.60, but provides no mechanism for advancement in the range. The Union's proposed wage rates reflect that the top paid employee receives a 3% salary increase and the rest of the bargaining unit members are moved to that rate. Like pay for like work is traditionally considered when identifying an appropriate wage. Nowhere can this tradition be more relevant that within the same bargaining unit. This proposal is to take effect October 1, 2014.

Employer

As set forth in its position statement:

The Employer makes its proposal based on a number of reasons. First, the positions in question are funded through the County's General Fund budget. In 2014, the approved General Fund budget had a three percent (3%) wage increase built into the budget. For 2015, the General Fund budget is approximately nine million ($9,000,000.00) less than 2014 budget. Due to the lack of revenue and no prospective new streams there is no wage increase built into the budget for 2015.

Secondly, the county weathered the national recession starting in 2008 and awarded no pay increases (except expressly agreed to prior in a contract) from 2008 through 2012. With an improving economy and revenues, the County was able to agree to and negotiate "Me Too" increases for the 2013-2014 period. Those increases were for three percent (3%) each in 2013 and 2014.

Thirdly, the County has negotiated with this same International union concerning a different bargaining unit in 2014. A three (3%) wage increase with "Me Too" language for years two (2) and three (3) was agreed to and approved by both parties in August 2014.

Because of the factors explained above, the Employer feels that its proposal is fair and equitable.

Findings and Recommendation

Other facts are relevant to this issue. Article 14 of the Agreement ("Wages") states the minimum and maximum hourly rates for the bargaining unit as follows:

Classification	Min. Hourly	Max Hourly
Maintenance Repair Worker 1	13.17	18.48
Maintenance Repair Worker 2	14.33	20.00

During the life of the Agreement several adjustments were made to the contractual wage scale. First, the classification of "Groundskeeper" was added to the unit, with the same minimum and maximum hourly rates as Maintenance Repair Worker 1. Next, the hourly rate of the six Maintenance Repair Worker 1's, and the two Groundskeepers, was raised to the minimum rate for Maintenance Repair Worker 2. Finally, the hourly rates for all employees in the unit were raised. The result is that the actual minimum and maximum hourly rates for all employees in the bargaining unit, are currently as follows:

Min. Hourly	Max. Hourly
14.76	20.60

Six unit employees are currently paid at the minimum rate of $14.76; six employees are paid between $15.02 and $16.10; and one employee is paid $23.74. The disparity in hourly rates is largely the result of when a particular employee joined the bargaining unit. In any event, however, there is no contractual provision whereby an employee is able to advance from the minimum to the maximum wage for the classification, with the result that the pay of six unit

employees is frozen at the minimum rate for the classification. It is also undisputed that the skill level and nature of the work is essentially the same for all members of the bargaining unit.

In its exhibit book the Union included a list of classifications and wage rates for the IUOE Local 20 unit of HVAC and facility Maintenance Workers, demonstrating not only higher rates, but also the fact that a three percent increase for that unit serves to widen the gap between the two IOUE units, even with the identical three percent increase proposed by the Employer. The Union also listed the pay rates for allegedly similar work at three local employers: City of Cincinnati - $19.19/hr.; University of Cincinnati - $18.58/hr.; and Cincinnati Public Schools - $19.51/hr.

As stated above, the Union's proposal, retroactive to October 1, 2014, would eliminate the "minimum" and "maximum" rates for each classification.[1] During the fact-finding, as the parties were informally discussing the possibility of a mutually-agreed pay increase, the idea was floated of eliminating the minimum and maximum rates, and establishing a single rate for all classifications, consistent with the Union's proposal. That result would have ended the problem of almost half the unit employees being frozen at the bottom of the current pay range; and would have been recommended by the undersigned. It transpired, however, that In order to achieve that objective within the parameters of the Employer's proposed increase of three percent for the first contract year, the resulting single rate (approximately $15.70/hr.), would have left the higher paid unit employees (those currently paid above $15.70/hr.) with little or no pay increase. Even if those higher paid employees were to receive a small adjustment, their

[1] Designating the proposed rates as a "pay range" is inaccurate, as there is only a single rate proposed by the Union for each classification.

increase would have amounted to less than three percent, a result that was unacceptable to the Union. Thus the elimination of the minimum and maximum hourly rates, while acceptable in theory, would not be achievable in the new Agreement.

The Employer's basic position ("rationale") has been set forth above. Regarding the Union's presentation of three comparators – University of Cincinnati, City of Cincinnati and Cincinnati Public Schools – essentially the Employer states that such are not valid, because the job duties do not match those of the bargaining unit. But the most important fact cited by the Employer is that "the County has negotiated with this same International [and local] union concerning a different bargaining unit in 2014…three [percent] (3%) wage increase with 'Me Too' language for years two (2) and three (3)…"

Essentially the Union is seeking a deviation from the pattern increase established by the County Commissioners. In accord with the observations set forth earlier, the undersigned is of the view that where a pattern increase has been negotiated with other bargaining units (or imposed on unrepresented employee groups), the pattern becomes the most important internal comparator; and is usually be maintained absent compelling circumstances. Here the reason for adhering to the pattern is even more important, because the other (larger) IUOE Local 20 unit accepted the Employer's offer that was identical to the package offered in this fact-finding.

It is unfortunate that the parties were unable to come up with a formula that would enable the unit employees currently paid at the minimum hourly rate, to advance within the range. That fact, however, does not warrant a deviation from the pattern established by the Employer, and accepted by the other IUOE unit.

Accordingly, the Employer's wage proposal is recommended.

Article 40 – Duration

Union Proposal

The Union proposes the following:

Section 40.1. Unless otherwise specified within specific Articles or Sections of this Agreement, all terms and conditions of this Agreement shall become effective October 1, ~~2011~~ 2014, and shall remain in full force and effect until 11:59 p.m., ~~September 30, 2014~~ April 30, 2017.

Section 40.2. If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to the expiration date, and no later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested.

Section 40.3. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the entire understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The provisions of this Agreement constitute the entire agreement between the Employer and the Union and all prior agreements, practices and policies, either oral or written, are hereby canceled.

Employer Proposal

The Employer proposes the following:

Section ~~40~~ 39.1. Unless otherwise specified within specific Articles or Sections of this Agreement, all terms and conditions of this Agreement shall become effective October 1, 201~~1~~4, and shall remain in full force and effect until 11:59 p.m., September 30, 201~~4~~7.

Section ~~40~~ 39.2 If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to the expiration date, and no later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested

Section ~~40~~39.3 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject

matter not removed by law from the area of collective bargaining, and that the entire understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The provisions of this Agreement constitute the entire agreement between the Employer and the Union and all prior agreements, practices and policies, either oral or written, are hereby canceled.

Positions of the Parties

Union

The Union states that its proposal expiration date of April 30, 2017, the same date as the expiration of the Facilities Maintenance Agreement, is preferable because "it would be time and cost effective to bargain with both units simultaneously."

Employer

Other than the proposal quoted above, the Employer did not present a supporting written argument. However during the fact-finding process an employer representative stated a concern that having this agreement expire on the same date as the Facilities Maintenance Agreement would expose the Employer to "whipsawing" bargaining tactics by the Union.

Findings and Recommendation

The Union seeks a 31 month agreement versus a 36 month agreement proposed by the Employer, based on the assertion that bargaining for this unit, simultaneously with the Facilities Maintenance unit would be "time and cost effective." That assertion might or might not be accurate. In other words, bargaining the two units at the same time might turn out to be more efficient, but could just as easily result in discord and controversy between the two groups, leading to a bargaining breakdown in both units. Likewise the Employer's concern, stated above, that having the two units bargaining simultaneously could lead to "whipsawing;" but

which could turn out not to be a problem. Thus both the Union's contention and the Employer's concerns regarding this issue are based on speculation, rather than facts.

The Union's position would be more persuasive if both IUOE bargaining units were combined into one, with a single agreement; but that is not the current situation.

The ultimate conclusion regarding duration is that the new Agreement is a successor to a prior three-year contract, which had an expiration date on September 30; and no compelling facts were presented to warrant a shorter contract. Therefore the Employer's proposal for a full three-year contract is recommended.[2]

IV. Tentative Agreements

Prior to fact-finding the parties tentatively agreed to the following contract articles:

Article 1	Union Recognition
Article 2	Management Rights
Article 4	Labor Management Committee
Article 5	Corrective Action
Article 6	Grievance Procedure
Article 7	No Strike/No Lockout
Article 8	Promotions
Article 9	Vacancies and Transfers
Article 10	Seniority
Article 11	Personnel Files
Article 12	Union Business
Article 13	Shift Differential
Article 15	Temporary Classification
Article 16	County Classification Plan
Article 17	Vacation
Article 18	Sick Leave
Article 19	Earned Personal Days
Article 20	Holidays
Article 21	Safety and Health
Article 22	Insurance

[2] The Employer asserts that the Article should be numbered "39" rather than "40", "due to a deleted prior Article." As there is no reason to question the accuracy of that assertion, the Employer's proposal renumbering the "Duration" article is acceptable.

Article 23	Subcontracting
Article 24	Employee Records
Article 25	Overtime and Hours of Work
Article 26	Leaves of Absence
Article 27	Bulletin Boards
Article 28	Layoff and Recall
Article 29	Contract Construction
Article 30	Supervisors Working
Article 31	Non-Discrimination

Findings and Recommendation

As both parties have independently requested that all of the above articles tentatively agreed to be recommended by the undersigned, they are hereby recommended.

Respectfully submitted,

Jeffrey A. Belkin
Fact-Finder

Shaker Heights, Ohio
February 26, 2015