

BEFORE THE  
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD

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In the Matter of Fact Finding Between:

City of Harrison, Ohio

and

S.E.R.B. Case No. 96-MED-03-0225  
(Fact Finding)

United Steelworkers of America,  
Local No. 1858

Appearances:

For the City:

J. Michael Fischer, Esq.  
Ennis, Roberts & Fischer  
Cincinnati, Ohio

For the Union:

James C. Newport  
Staff Representative  
USA District 1, Sub-District 3  
Cincinnati, Ohio

FACT FINDER'S REPORT AND RECOMMENDATIONS

Frank A. Keenan  
Fact Finder

I. Background:

This matter came on for hearing on July 29, 1996 in Harrison, Ohio. The parties declined an offer to mediate, having had extensive mediation prior to Fact Finding and having reached a tentative agreement in said mediation, which was rejected by the bargaining unit. The bargaining unit, some twenty-three employees, includes all full-time non-uniformed employees of the City, which encompasses the following classifications: custodial maintenance worker; police clerk; senior assistant clerk/night receptionist; kitchen worker/grounds maintenance; laborer; receptionist/secretary community center; utilities receptionist/clerk; wastewater receptionist/secretary; police clerk/secretary; operator I non-certified; utility billing data entry clerk; payroll clerk/administration clerk; service worker I; senior van driver/grounds maintenance; leadman street; deputy tax commissioner; service worker II; wastewater mechanic; class I water operator certified; class I wastewater operator certified; class II water operator certified; class II wastewater operator certified; class III water operator certified; class III wastewater operator certified; wastewater pretreatment coordinator-certified; and water coordinator certified.

The parties are at impasse on two issues: wages (Article 35) and hospital/surgical/major medical (Article 22) benefits.

In making the recommendations herein I have taken into account and relied upon the statutory criteria, as set forth below, whenever such factors were put forward by the parties, or where

deemed to be present, to wit: the factors of past collectively bargained agreements; comparisons of the unresolved issue relative to the employees in the bargaining unit with that issue related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved; the interest and welfare of the public; the ability of the public employer to finance and administer the issues proposed; the effect of the adjustments on the normal standards of public service; the lawful authority of the public employer; the stipulations of the parties; and such other factors, not confined to those noted above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute settlement procedures in the public sector or in private employment. References herein to the current Contract, more precisely are references to the most-recently-expired Contract, too cumbersome a phrase.

## II. Parties' Positions and Evidence:

### A. Issue #1. - Wages

The Union seeks to increase each employee's wage rate by sixty cents (\$0.60) the first year of the Contract (retroactive to June 1, 1996); sixty cents (\$0.60) the second year, and fifty-five cents (\$0.55) the third year. The Union asserts that its wage request is not out of line with comparable cities, nor is it out of line with other non-bargaining unit City employees.

With respect to comparable cities, the Union compares Harrison to Oxford, Reading, Mason, Milford, and St. Bernard. The Union

submitted a chart showing what these jurisdictions pay for comparable job classifications. Not all of these jurisdictions employ all of the same classifications as does Harrison. This chart shows that often employees in other jurisdictions earn more. Thus, for example, whereas a police clerk in Harrison currently earns \$9.90 per hour, police clerks in Oxford earn on a range from \$9.30 to \$12.59 per hour; police clerks in Reading earn on a range from \$12.70 to \$13.54; Class I water-operator certified earn on a range from \$12.21 to \$16.52 in Oxford and from \$14.04 to \$15.28 in Reading. Mason pays its Class III wastewater operator certified employees \$14.30/hour, whereas Harrison pays for a comparable job but \$12.00+, etc., etc.

Additionally, recent raises for non-bargaining unit managers range from 5.4% to 20% of previous levels. Thus, for example the Senior Coordinator received a 20% raise; the Director of Streets a 19.2% raise; the Tax Commissioner a 5.4% raise and the Assistant Fire Chief a 6.6% raise.

The City would increase each employee's wage rate by forty-five cents (\$0.45) the first year of the Contract (retroactive to June 1, 1996); forty cents (\$0.40) the second year; and thirty-five cents (\$0.35) the third year. Regarding \$11.50 as the average bargaining unit wage rate, these cents per hour increases represent a 3.5%, 3.35% and 2.83% wage increase each respective year of the agreed to three-year Contract, or an average increase over the life of the Contract of 3.22%.

Pointing out, and substantiating same with U.S. Bureau of Labor Statistics and the Kiplinger Washington Letter of February 9, 1996 and March 29, 1996, that for the past three years inflation has averaged 2.63% per year and that it is predicted to not exceed 3% for 1996, the City contends that in the past negotiated wage rates at 4% to 4.5% per annum, have exceeded the average rate of inflation obtaining at the time. Such is also the case, asserts the City, with the rate increases it proposes here, and accordingly, the City's offer would again keep the bargaining unit in line with the predicted rate of inflation.

The City asserts, and substantiates with data furnished by the State Employment Relations Board, that in jurisdictions the City deems comparable, wage increases for the period between 1994 and through 1997 fell in the 2.5% to 3.5% range. These comparable jurisdictions include bargaining units in the following geographically near municipalities: Blue Ash; Cheviot; Cincinnati; Deer Park; Fairfield; Forest Park; Hamilton; Madeira; Middletown; Milford; Mt. Healthy; North College Hill; Norwood; Reading; St. Bernard; Silverton; and Wyoming.

The City points out and emphasizes that its wage offer was tentatively agreed to by the Union's negotiating committee, and later overwhelmingly rejected by the bargaining unit in a secret ballot election, the results of which indeed lead one to conclude that even two members of the Union's bargaining committee did not vote to accept the parties' tentative agreement.

The City additionally points out that given the cents-per-hour-for-each-classification characteristic of its wage offer, for over half of the bargaining unit [some thirteen (13) employees] the wage offer amounts to more than a 4% increase. Thus the majority of the bargaining unit will receive an increase greater than all of the City's comparables except Deer Park.

The City assails the Union's wage comparables chart [Union Exhibit #2] on three principal grounds. The first ground is that in setting forth the City of Harrison's 1995 rates, the chart distorts the relative position of the City's wage rates. The second challenge is to the "comparability" of the Union's selected sample of municipalities. Several differ markedly demographically and tax base-wise from Harrison, asserts the City. Thus the City asserts that Reading and St. Bernard have a substantial industrial base for tax purposes with the consequence that they are far more capable of financing employee wage increases than is Harrison. In a similar vein, Oxford, a college town, has high residential property values and an otherwise better tax base than does Harrison. Finally, Mason, to whom the Union would compare Harrison, is the fastest growing community in southwest Ohio, with the consequence that it too has a healthier tax base than does Harrison, with which to finance employee wage increases. Thirdly, the City points to the fact that three of the five of the Union's wage comparable municipalities reflected on its chart pay on the basis of a salary range (paying greater pay for longer service) and to the fact that the chart fails to indicate who is where in the

salary range with the consequence that its use as a comparable is limited.

Pointing out that the Union's wage offer is in the 6% per annum range, the City asserts there simply is no warrant or justification for such a high rate of increase.

Rationale:

With respect to "comparable" data, as has been seen, the City puts forth a larger sample. Interestingly, three of the five cities the Union puts forth, Reading, Milford, and St. Bernard, are included in the City's sample. While these cities pay a range whose top end outstrips Harrison's rate in most classifications (Milford) or all across the range (Reading), nonetheless the rate of increases in these jurisdictions have been in the "threes." This comports with the trend generally in the mid-nineties statewide. St. Bernard, on the other hand, which the Union relies upon, had increases only in the "twos." The point to be made is that "comparable" data simply supports the average rate of increase of some 3+% the City offers, and does not support the approximately 6% the Union seeks.

The statutory factor of past collectively bargaining agreements would support a rate of increase in between the parties' respective offers, namely, in the "fours." But even on this point, the record evidence gives greater support to the City's offer. Thus over half of the bargaining unit will realize an increase in the fours under the City's offer and additionally, "fours" are closer to the City's average of 3.22% than to the Union's 6%.

Most significant among the statutory factors to be considered is the factor of "other factors . . . which are normally or traditionally taken into consideration in the determination of issues [at impasse]." Thus since the Statute's inception in 1984, neutral panelists have traditionally been recommending as the appropriate resolution of the parties' dispute, the tentative agreement the parties' negotiating teams reached on the issue, notwithstanding the fact that for whatever reasons the legislative body or Union membership rejects the tentative agreement. This is so because presumptively the tentative agreement would not have been arrived at if the negotiating teams, closest to the situation and therefore cognizant of all the circumstances, had not agreed it was appropriate. This factor of the tentative agreement therefore weighs heavily in the conclusion and recommendation made here.

In sum, a preponderance of the statutory factors which are present favor the City's position over that of the Union. Accordingly, the City's position shall be recommended.

Recommendation:

It is recommended that the parties' Contract provide as follows:

ARTICLE 36

WAGES

	<u>June-96</u>	<u>June-97</u>	<u>June-98</u>
Custodial Maintenance Worker	10.35	10.75	110
Police Clerk			
Senior Assist.Clk/Night Receptionist			
Kitchen Worker/Grounds Maintenance			
Laborer			
Receptionist/Secretary Comm. Center	10.60	11.00	115
Utilities Receptionist Clerk			
Wastewater Receptionist/Secretary			
Police Clerk/Secretary	10.85	11.25	116
Operator I Non-Certified	11.10	11.50	118
Utility Coordinator/Billing Entry Clerk	12.40	12.80	135
Administrative Asst./Payroll Clerk			
Service Worker I	11.35	11.75	120
Senior Van Driver/Grounds Maintenance			
Service Worker II	11.60	12.00	125
Deputy Tax Commissioner	11.75	12.15	126
Leadman Street			
Wastewater Mechanic	12.15	12.55	129
Class I Water Operator Certified	12.50	12.90	132
Class I Wastewater Operator Certified			
Class II Water Operator Certified	12.95	13.35	130
Class II Wastewater Operator Certified			
Class III Water Operator Certified	13.60	14.00	145
Class III Wastewater Operator Certified			
Wastewater Pretreatment Coordinator-Certified			
Water Coordinator Certified	14.15	14.55	149

Newly employed bargaining unit members shall be paid 80% of the rates set forth herein during the period of his/her probation set forth in Article 12.1.

The following differential rates shall apply to hours actually worked by employees assigned to a second or third schedule:

SECOND SHIFT:

Wherein the majority of the scheduled hours worked are between 3:00 p.m. - 11:00 p.m. - increase rate 25 cents per hour.

THIRD SHIFT:

Wherein the majority of the scheduled hours worked are between 11:00 p.m. - 7:00 a.m. - increase rate 35 cents per hour.

III. Parties' Pensions and Evidence:

B. Issue #2 - Article 22 - Hospital/Surgical/Major Medical

In the current Contract the parties provide for a "cap" concept. In it the City agrees to pay a certain set rate toward the cost of the insurance premium, a set rate which increased at different times during the life of the Contract. The current Contract provided that any rates above the rates set forth in the Contract "shall be shared equally by the City and the employee . . ." At the present time the City pays \$353.39 toward a premium of \$403.27, with the employee paying the balance of \$49.88. This is a combined rate for both single and married employees, and is good through October 1996. The City proposes the following schedule of City contributions to the Contract's health insurance provisions:

<u>Date</u>	<u>Monthly CAP Rate</u>	<u>Equiv. Cents/Hour</u>
Upon ratification	403.27	29
November 1, 1996	409.32	3.5
June 1, 1997	415.47	3.5
November 1, 1997	421.70	3.6
June 1, 1998	428.02	<u>3.6</u>
		43.2 cents/hour

The City asserts that "these increased CAP rates bring the CAP to the current monthly cost upon ratification and increase the CAP by 3% per year for the succeeding years on a semi-annual basis.

The increase in CAP over the life of the contract is equivalent to 43.2 cents per hour or an average of 1.2% per year when applied to the hourly rate. This is particularly significant since any increases above the CAP rate are shared equally by the City and the employee. Unless there is a major increase in insurance premiums, the employee's share of insurance payment should be very nominal over the life of the contract." The City's proposal is what the parties agreed to in their tentative agreement of 6-6-96.

The Union's proposal is that "the insurance cap be brought up to \$431.42 immediately with a three percent (3%) increase for each year of the Contract. The employees covered under this Contract were the only employees of the City's union employees that contributed to their insurance coverage during the terms of their Contract. The USWA members contributed \$308.36 for their coverage last year, while the FOP and the IAFF did not contribute anything.

We believe where . . . insurance [is] concerned we have been treated as second-class employees and now it is time that we be brought up to the standards that the rest of the City employees enjoy."

This matter of the rate or amount of the City's contribution toward the health insurance premium has a "history." Thus the record reveals that at the time of the Contract negotiations for the current (now expired) Contract, the bargaining unit here was offered the same trade off as was offered to the police and fire bargaining units, namely, ten cents less per hour in wages in exchange for a higher health insurance CAP. The police and fire

units elected to take this trade off; the bargaining unit did not. Having done so the police and fire unit CAP as of 6-1-94 was \$385.41, and \$431.42 as of 6-1-95. The fire unit's contract provides for a CAP of \$477.43 as of 6-1-95, and the police unit is currently in negotiations.

The City takes the position that it is not fair to the police and fire units to adopt the Union's offer for such would be tantamount to telling the police and fire units that their past sacrifice was unnecessary, since the bargaining unit here obtained essentially the same bargain without the sacrifice exacted from the police and fire units. The Union asserts that given the lower basic pay rates of the bargaining unit, its members could less afford a diminution of 10¢ per hour in wages than could the better paid police and fire unit members.

Other matters of note include the Union's comparable data on its five municipalities reflecting that all of them pick up 100% of the premium on their health insurance benefit. Further on this point, the City asserts that with the current premium rate of \$403.27, its offer is tantamount to a 100% City pickup of the health insurance premium, and will likely remain so for the three year life of the parties' Contract.

Rationale:

Although the Union's comparables, as pointed out in connection with the discussion related to Issue #1, are somewhat flawed, they do reflect a unanimous 100% employer contribution to the health care premium. The City's comparable data doesn't touch on the

insurance issue. However, as noted hereinabove, three of the Union's five "comparable" cities are put forth by the City as "comparables" as well. Generally speaking, comparable data which supports a party's position is a statutory factor given considerable weight. But as noted hereinabove in connection with the discussion on Issue #1, deference to the parties' tentative agreement on a matter is also given considerable weight. Here the City's offer reiterates the parties' tentative agreement of 6-6-96.

In my view both parties make valid points with respect to the "history" of the CAPs on health insurance amongst the City's bargaining units, but on balance, the comparable data warrants a modest straying from the terms of the tentative agreement. Thus while it would not be fair for the bargaining unit to be totally caught up with the police and fire units in light of the lack of the same or similar sacrifice exacted from the bargaining unit here, since comparable cities pay 100% of the health insurance premiums for their similar bargaining unit employees, it seems eminently fair to enhance a somewhat greater measure of assurance that the CAP and increase-of-cap formula will cover 100% of the cost of the health insurance premium, even if to do so requires some variance from the tentative agreement. In this regard the tentative agreement provides as follows:

"Insurance	A) Current rate [i.e. 403.27]	[effective] 6-1-96
	B) Current rate + 1.5%	11-1-96
	C) [B above] + 1.5%	6-1-97
	D) [C above] + 1.5%	11-1-97
	E) [D above] + 1.5%	6-1-98

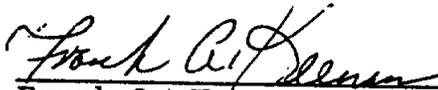
In my view increasing the current rate by fifteen dollars (\$15.00) gives the desired enhanced assurance, and such shall be recommended.

Recommendation:

The parties' Agreement shall provide at Article 22 the same language as that of the current Contract except the "rates," which rates shall be as follows:

A) 418.27	6-1-96
B) "A" above + 1.5%	11-1-96
C) "B" above + 1.5%	6-1-97
D) "C" above + 1.5%	11-1-97
E) "D" above + 1.5%	6-1-98

This concludes the Fact Finder's Report and Recommendation.

  
 Frank A. Keenan  
 Fact Finder

Date: August 14, 1996