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STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In The Matter of Fact Finding)	SERB Case No. 98-MED-08-0747
)	
between)	
)	
AFSCME, OHIO COUNCIL 8)	
LOCAL 101,)	
)	
Employee Organization,)	FACT FINDING REPORT
)	
and)	Mitchell B. Goldberg,
)	Appointed Fact Finder
CITY OF MORaine, OHIO,)	
)	
Employer.)	Date: March 30, 1999

APPEARANCES:

For the Union:

William Sams, Staff Representative
 Amy Price, Staff Representative
 Scott Thomason, Staff Representative
 Peter Gesell, Chapter Chair
 David Clark, Steward

For the Employer:

Janet Cooper, Esq., Attorney
 James Kimmel, Accounting Supervisor
 Wayne Barfels, City Manager
 David Prunear, Street Superintendent

I. INTRODUCTION

The undersigned, Mitchell B. Goldberg, was appointed as the Fact Finder for the subject case pursuant to the regulations of the Ohio State Employment Relations Board on December 1, 1998. A hearing was conducted on March 18, 1999. Thereafter, the parties agreed that the Fact Finding Report was to be issued on March 30, 1999.

Each of the parties had representatives and witnesses at the hearing. The principal representative for the Union was William Sams and the principal representative for the City was Janet Cooper.

Prior to the hearing, each of the parties submitted Pre hearing Statements pursuant to Section 4117-9-05 of the Rules of the State Employment Relations Board. Included in the Statements was a general description of the employees in the Bargaining Unit. The parties met four times between November 12th and December 16th and they engaged in mediation on January 4th and January 22nd, pursuant to their negotiations for a collective bargaining agreement.

Consideration in this Report was given to all of the criteria listed in Rule 4117-9-05 (J) of SERB.

II. MEDIATION

This Fact Finder attempted to mediate the sole issue remaining in dispute between the parties but the issue remained unresolved and the matter proceeded to Fact Finding.

III. UNRESOLVED ISSUE

The sole issue for determination by the Fact Finder is the Employer's proposal for a second tier of wages for new hires in the Bargaining Unit. Employees hired after December 31, 1998 would be paid less than employees hired before that time at each step for each classification in each of the three years of the collective bargaining agreement (CBA).

The Employer presented evidence, in the form of exhibits, testimony and statements, that the wages paid to the street workers are unreasonably and unnecessarily higher than the wages paid to other employees performing similar services in the surrounding municipalities to Moraine. Notwithstanding the City's ability to pay higher wages and benefits to these employees because of its admittedly sound financial condition and tax revenue base, the continued payment of higher wages adversely affects the wage market for employees and causes the wages paid by other municipalities to be unreasonably higher than the market justifies. The City's proposal is

fair because it protects existing employees who will be receiving 3.5% increases across the board for each of the three contract years; however, new employees will be paid more in line with the existing labor market in the surrounding geographical area. New employees will still be at the top of the pay scale compared to surrounding municipalities; but, under the new pay scale, the disparity with other communities will be less dramatic. The proposal is driven by economic realities. When new positions are posted in the Street Department there are an abundance of applicants. This will continue to be the case under the two tier proposal because the wages paid will still be the highest in the area. The money saved by the taxpaying citizens as the result of this proposal will be allocated to other areas of government where citizens will receive a greater benefit. The two tier system has been implemented in nearby Kettering and in other areas in Ohio with minimal problems.

The Union takes the position that there is no justifiable basis for the City's proposal. The City's financial condition is beyond excellent. Because of industry expansion and accompanying tax revenue increases, including the expansion of General Motors facilities, and the low residential population service needs, the City has been able to increase revenue from its investments and impose a very small tax burden upon its resident citizens. This continuing wealth has permitted the Union and its members to make considerable economic gains over the last ten years with little concern on the part of Moraine citizens. The new proposal, if implemented will destroy these hard fought gains which were obtained by the existing members. Under the proposal, semi- skilled workers, for example, will earn only \$.14 per hour more than existing workers in that classification in 1989.

A two tier system will unfairly discriminate against street workers. Police and fire employees are not paid under a two tier system notwithstanding that their wages far exceed other police and fire employees in the surrounding area. Needless turmoil and disharmony will result from this proposal and labor relations will deteriorate because new employees will resent being paid substantially less than existing employees when they perform the same job while working together.

The City counters these arguments. The new proposal will bring the street workers more in line with unorganized maintenance and park employees who earn considerably less than street employees. This will address the existing resentment that the maintenance and park employees have because of lower pay for what they believe, in at least some instances, is comparable work. A two tier system in the police and fire departments is unnecessary at this time because, while their wages are higher than comparable surrounding communities, the wages are not nearly as out of line as the wages of street workers compared to other similarly situated employees. Finally, the fact that new hires will be paid on a decreasing scale will not cause disharmony because there are a small number of employees hired each year and those employees will still be pleased with their package of wages and benefits which will far exceed any amounts that they could earn in the area for doing comparable work.

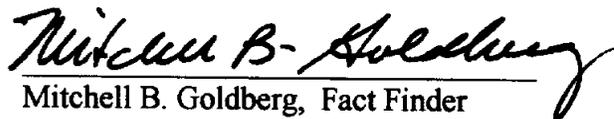
A. DISCUSSION. A permanent two tier system for this bargaining unit will probably not present noticeable labor relations problems in the short term for the City; however, over the longer term, when two tier employees constitute a sizable percentage of the Unit, problems could develop which could be characterized from troublesome to disastrous. It is unrealistic to think that this would not be the case when half the employees are receiving considerably less compensation than their coworkers for doing the same work. My twenty- five plus years of labor relations experience leads me to believe that the second tier group will blame the first tier group and the City for their perceived inequity.

The City has concluded that it would be an easier pill for the Union to swallow if it placed the problem in the hands of the future "unborns"; those yet to be hired employees who have no standing to object to their wage reduction. Yet, one must ask how the City got to their present predicament of paying these Unit members as much as 88% over the average wages paid to comparable workers in surrounding areas (maximum rate for semiskilled over average paid for group in comparable cities). My instinct tells me that increases occurred without serious strife in negotiations because of the City's continuous increase in wealth and that these workers' wages and benefits were probably compared to workers in private industry, including classifications at General Motors. My conclusion, based upon the financial evidence presented, is that the disparity of compensation paid to street workers is somewhat out of line when compared to comparable workers in nearby communities. Nevertheless, I believe that the disparity should be addressed between the parties by approving future increases for existing employees which are less than those received in the comparable contracts until the disparity more closely resembles the disparity exhibited between the police and fire workers with their neighbors. While this is a more difficult path in the short term, it would address the problem and prevent the possible catastrophe waiting for future government officials and labor officials when they are forced to deal with disgruntled two tier employees. Unfortunately, this path was not chosen by the parties. They have provided across the board increases to existing employees which mirror those received in comparable communities thereby continuing the large disparity in favor of existing employees. The only issue for my consideration is the implementation of the two tier schedule; I cannot change the wages which have already been agreed upon.

B. RECOMMENDATION. I reluctantly recommend the concept of the two tier system proposed by the City because the evidence is overwhelming that the disparity between the wages received by existing employees are far beyond the wages received by comparable workers in neighboring communities and the disparity far exceeds the disparity between police and fire workers and their comparable safety workers. However, the Exhibit which compares police sergeants with sergeants in other communities uses some different communities as comparable communities. For example, the sergeant Exhibit refers to Miami Township and Miamisburg which are omitted from the street worker comparisons. Likewise, the street worker Exhibits refer to Sidney, Dayton, Springfield, Oakwood and Middletown which are omitted from the sergeant Exhibit. Accordingly, I recommend the City's proposal as set forth in Exhibit "A" attached hereto, except that the rates in each classification at each step for each contract year must be equal to or exceed that percentage disparity which presently exists between the average

wages (including pension pickup) paid to Moraine police sergeants and that presently paid to the average of police sergeants at the minimum and maximum levels at Centerville, Kettering, Englewood, Huber Heights, Vandalia, Sidney, Beavercreek, Fairborn, Xenia, Dayton, Springfield, Oakwood, Middletown, Miamisburg, West Carrollton, Miami Township, Tipp City and Piqua. To the extent that any City proposed rate does not equal the percentage difference between sergeants at Moraine and the average sergeants rate at minimum and maximum levels at the average of the above mentioned entities, the rate shall be increased to reflect the difference at the minimum and maximum levels.

Date: March 30, 1999


Mitchell B. Goldberg, Fact Finder

Hired Before 1/1/1999			
A	B	C	D

Hired after 12/31/1998			
A	B	C	D

From January 1, 1998 to December 31, 1998

SEMI-SKILLED STREET WORKER	18.08	18.68	19.25	19.86
EQUIPMENT OPERATOR I	18.62	19.22	19.84	20.46
EQUIPMENT OPERATOR II	18.78	19.43	20.06	20.72
EQUIPMENT OPERATOR III	19.18	19.84	20.48	21.12
ASSISTANT MECHANIC	18.64	19.36	19.86	20.46
CHIEF MECHANIC	20.34	21.08	21.81	22.50

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From January 1, 1999 to December 31, 1999

SEMI-SKILLED STREET WORKER	18.71	19.33	19.92	20.56
EQUIPMENT OPERATOR I	19.27	19.89	20.53	21.18
EQUIPMENT OPERATOR IIA	19.44	20.11	20.76	21.45
EQUIPMENT OPERATOR II	19.85	20.53	21.20	21.86
ASSISTANT MECHANIC	19.29	20.04	20.56	21.18
CHIEF MECHANIC	21.05	21.82	22.57	23.29

12.60	13.10	13.63	14.18
15.66	16.21	16.78	17.37
X	X	X	X
19.27	19.89	20.53	21.18
15.66	16.21	16.78	17.37
20.00	20.70	21.43	22.19

From January 1, 2000 to December 31, 2000

SEMI-SKILLED STREET WORKER	19.36	20.01	20.62	21.28
EQUIPMENT OPERATOR I	19.94	20.59	21.25	21.92
EQUIPMENT OPERATOR IIA	20.12	20.81	21.49	22.20
EQUIPMENT OPERATOR II	20.54	21.25	21.94	22.63
ASSISTANT MECHANIC	19.97	20.74	21.28	21.92
CHIEF MECHANIC	21.79	22.58	23.36	24.11

13.04	13.56	14.11	14.68
16.21	16.78	17.37	17.98
X	X	X	X
19.94	20.59	21.25	21.92
16.21	16.78	17.37	17.98
20.70	21.42	22.18	22.97

From January 1, 2001 to December 31, 2001

SEMI-SKILLED STREET WORKER	20.04	20.71	21.34	22.02
EQUIPMENT OPERATOR I	20.64	21.31	21.99	22.69
EQUIPMENT OPERATOR IIA	20.82	21.54	22.24	22.98
EQUIPMENT OPERATOR II	21.26	21.99	22.71	23.42
ASSISTANT MECHANIC	20.67	21.47	22.02	22.69
CHIEF MECHANIC	22.55	23.37	24.18	24.95

13.50	14.03	14.60	15.19
16.78	17.37	17.98	18.61
X	X	X	X
20.64	21.31	21.99	22.69
16.78	17.37	17.98	18.61
21.42	22.17	22.96	23.77

EXHIBIT "A"