

PRELIMINARY COMMENTS

The State Employment Relations Board appointed the fact-finder who was duly notified by G. Thomas Worley, Administrator, Bureau of Mediation, by letter on December 10, 1998.

The fact-finding hearing was held on Friday, April 30, 1999 at the Independence Town Hall, Independence, Ohio.

There are approximately twenty-four (24) bargaining unit employees in the Service Department.

Although the City of Independence has only a population of less than seven thousand (7,000), the daytime population exceeds thirty thousand (30,000) due to the many offices maintained in the City by various enterprises. This phenomenon results in both additional expense and revenue to the City. However, the ability to pay was not an issue.

The parties had met previously on at least six (6) occasions in an effort to arrive at a collective bargaining agreement. Therefore, there was limited success in mediation. However, the parties did agree to insert a provision to explore the concept of PTO (paid time off). The parties further agreed to increase the compensatory time off to a maximum of eighty (80) hours. The parties also agreed to increase the probationary period to twelve (12) months.

The fact-finder would be remiss if he did not compliment the parties on their preparation and presentation of their respective positions as well as the degree of professionalism displayed throughout the proceedings.

ISSUES AND RECOMMENDATIONS

Issues will be discussed in the order that they would affect the most recent collective bargaining agreement.

Sick Leave Article 23 -- Section 5

Issue. This issue, proposed by the City, seeks to limit use of sick leave for a family illness to "serious" illnesses as defined by the Family Medical Leave Act.

Position of the City: It is the position of the City that the extension of the sick leave provisions to include family members has resulted in a dramatic increase in the utilization of sick time. In support of this contention, the City presented statistics showing that 12% of all sick leave used in 1997-98 was in connection with a family member. The City maintains that guidelines are necessary in order that this section of the collective bargaining agreement is not abused.

Position of the Union: It is the position of the Union that this proposal is unprecedented in the Greater Cleveland area. It is further the position of the Union that the use of sick time does not add to the City's cost of doing business.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that the language in the most recent collective bargaining agreement is too vague. Parameters are necessary to avoid misunderstanding and abuse. The proposal of the City appears to achieve that goal without being duly restrictive.

It is also the opinion of the fact-finder that the claim of the Union that broad use of sick leave would not add to the cost borne by the City is not persuasive. Absenteeism creates overtime; increased absenteeism creates increased overtime.

Recommendation of the Fact-Finder: It is the recommendation of the fact-finder that Article 23, Section 5 read as follows:

Section 5. Sick leave shall be granted for absences from duty because of illness, injury, disease, exposure to contagious disease or attendance upon members of the immediate family whose serious health condition, as that term is used in the Family Medical Leave Act, requires the care of such employee. "Immediate Family" shall mean the father, mother, sister, brother, wife, husband or children related

either by blood or marriage to the employee and who are residing with the employee.

Hospitalization Insurance
Article 30 -- Section 2

Issue: This issue, proposed by the Union, seeks to eliminate the contribution by the employee to the cost of hospitalization.

Position of the Union: It is the position of the Union that such proposal would only cost the City approximately Six Thousand One Hundred Dollars (\$6,100.00) for the eleven (11) employees presently affected. No other evidence was proffered in support of the proposal.

Position of the City: It is the position of the City that such a change would be disruptive of the City-wide Hospitalization Insurance Committee.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that both economies of scale and morale are best achieved by uniformity in such items as hospitalization. The committee in place appears to have such objective in mind.

Recommendation of the Fact-Finder: It is the recommendation of the fact-finder as to this proposal is as follows:

NO CHANGE

Longevity Compensation
Article 32 -- Section 1

Issue: This issue, proposed by the Union, seeks to extend longevity payments to employees hired on or after January 1, 1987.

Position of the Union: It is the position of the Union that longevity pay has long been recognized as a means for an employer to acknowledge the years of dedicated service provided by its employees. The Union points to its use in other communities.

Position of the City: It is the position of the City that such a proposal ignores the past bargaining history of the parties. The parties had previously agreed to phase longevity out of the compensation package in exchange for other adjustments.

The City also contends that the fact that there are now twelve (12) employees who are not eligible for longevity compensation is not reason enough to abrogate the history of bargaining. This eventuality was obvious at the time of the change.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that he is charged with the responsibility of considering the past bargaining history of the parties.

It is also the opinion of the fact-finder that circumstances change; that which was previously perceived as appropriate may no longer be so; and that we should not be precluded from righting a wrong.

However, the Union has neither presented any persuasive evidence that equity demands a change nor offered any consideration for the proposed change.

Recommendation of the Fact-Finder: The recommendation of the fact-finder as to this proposal is as follows:

NO CHANGE

Compensation Schedule
Article 33 -- Section 1

Issue: Both parties, as expected, had a proposal in the area. The Union proposal is as follows:

<u>Year</u>	<u>% Increase</u>
1999	3.5
2000	3.5

The City proposal is as follows:

<u>Year</u>	<u>% Increase</u>
1999	3.0
2000	3.0
2001	3.0

Both parties offered comparables in support of their respective positions. The Union comparables were in the form of percentages; the City comparables were in the form of annual compensation.

Opinion of the Fact-Finder: As indicated in the Preliminary Remarks, ability to pay was not an issue. In terms of annual compensation, the City ranks at the top of the list of comparables submitted. Both parties apparently agree that some adjustment is in order.

Recommendation of the Fact-Finder: The recommendation of the fact-finder as to Article 33, Section 1 is as follows:

<u>Year</u>	<u>% Increase</u>
1999	3.0
2000	3.5
2001	4.0

N.B. The mathematics will be left to the skills of the parties. Increases are to be effective January 1 of each year. It is obvious that we are

proposing a three (3) year collective bargaining agreement. This will be further discussed in connection with Article 45.

Compensation Schedule
Article 33 -- Section 2

Issue: This issue, proposed by the Union, seeks to eliminate the two-tier pay structure over the course of three (3) years.

Position of the Union: It is the position of the Union that it is unaware of any other community which has a two-tier pay structure similar to the City of Independence. It is also the position of the Union that equity dictates this change.

Position of the City: It is the position of the City that this arrangement was the result of the agreement between the parties some twelve (12) years ago in connection with the phasing out of longevity.

It is also the position of the City that many communities do, in fact, have pay differentials based on seniority and/or experience.

It is further the position of the City that if this proposal were adopted the program concerning certifications would, of necessity, need to be revisited.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that no persuasive evidence was presented by the Union in support of upsetting the bargaining history of twelve (12) years.

Recommendation of the Fact-Finder: The recommendation of the fact-finder as to this proposal is as follows:

NO CHANGE

Compensation Schedule
Article 33 -- Section 3

Issue: This issue, proposed by the City, seeks to eliminate additional compensation for certification.

Position of the City: It is the position of the City if, and only if, the two-tier system were eliminated, the certification compensation would represent a windfall to the Union.

Position of the Union: It is the position of the Union that the City did not offer any supporting evidence in connection with the proposal.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that the issues of longevity, two-tier wage structure, and additional compensation for certifications are inexorably linked and, therefore, changes in one area

may well dictate a change in another area. However, no changes have been recommended.

Recommendation of the Fact-Finder: The recommendation of the fact-finder as to Article 33, Section 3 is as follows:

NO CHANGE

Standby Pay
Article 44 -- Section 1

Issue: This issue, proposed by the Union, seeks to increase standby pay from Ninety-Five Dollars (\$95.00) per week to One Hundred Ten Dollars (\$110.00) per week and then to One Hundred Twenty Dollars (\$120.00) per week.

Position of the Union: The Union offered nothing persuasive in support of this proposal.

Position of the City: It is the position of the City that the only comparable community is Strongsville which pays Forty-Five Dollars (\$45.00) per week.

Opinion of the Fact-Finder: As indicated above, the Union failed to present anything in support of its proposal.

Recommendation of the Fact-Finder: The recommendation of the fact-finder as to Article 44, Section 1 is as follows:

NO CHANGE

Duration of Agreement
Article 45 -- Section 1

Issue: This issue, proposed by the City, is to enter into a collective bargaining agreement having a term of three (3) years.

Position of the City: It is the position of the City that such a term would be economically more feasible in that the administrative costs of negotiations would be reduced.

It is also the position of the City that the Union previously requested a three (3) year contract.

It is further the position of the City that a three (3) year contract exists in comparable communities.

Position of the Union: It is the position of the Union that the City had promoted the two (2) year contract in the past.

Opinion of the Fact-Finder: It is the opinion of the fact-finder that the City has presented sound reasons for a three (3) year collective bargaining agreement. However, the uncertainty of the economic future requires that

the Union be protected. Economists are divided on the prospects of inflation. The recommendation on Article 33 attempted to protect against such eventuality.

Recommendation of the Fact-Finder: It is the recommendation of the fact-finder that Article 45, Section 1 read as follows:

Section 1. This Agreement represents the complete Agreement on all matters subject to bargaining between the City and the Union and shall remain in full force and effect from January 1, 1999 through December 31, 2001.



ROBERT C. DEVLIN
Fact-Finder

Dated May 14, 1999

CERTIFICATE OF SERVICE

The foregoing Report and Recommendations of the Fact-Finder was sent on May 14, 1999 by regular U.S. mail to the following individuals:

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