

STATE EMPLOYMENT  
RELATIONS BOARD

JUN 5 10 42 AM '99

IN THE MATTER OF FACT-FINDING

BETWEEN

CITY OF MASSILLON

AND

AFSCME OHIO COUNCIL 8, AFL-CIO  
LOCAL 966

BEFORE: Robert G. Stein

SERB CASE NO. 99 MED 12-1161  
99-MED 12-1162

PRINCIPAL ADVOCATE FOR THE UNION:

Fred L. Hartsel, Staff Representative  
AFSCME OHIO COUNCIL 8 AFL-CIO  
1145 Massillon Road  
Akron OH 44306-4161

and

PRINCIPAL ADVOCATE FOR THE EMPLOYER:

Alan W. Climer, Dir. of Public Service and Safety  
CITY OF MASSILLON  
Massillon Municipal Government Center  
One James Duncan Plaza  
Massillon OH 44646

## INTRODUCTION

The bargaining units are comprised of employees who hold various positions in the Service Department and the Waste Water Department. The parties negotiated for several weeks and were able to resolve all but five issues. The issues in dispute are staffing, hours of work, insurance, wages, and the health and welfare fund. The parties have a mature bargaining relationship and have seldom had to employ the fact-finding process during their long relationship. Massillon is a progressive northeastern Ohio city that has experienced growth under the strong leadership of its long time Mayor, Francis H. Cicchinelli, Jr. Likewise, the Union appears to be led by pragmatic people who are straightforward in the expression of their beliefs.

A fact-finding hearing was held on May 23, 2000 in Massillon, Ohio. Both advocates represented their constituencies well and clearly articulated their positions. The parties had witnesses testify and provide documentation in support of their respective positions. In order to expedite the issuance of this report, and with the concurrence of the parties, the Fact-finder shall briefly state the position of each party and shall summarize the rationale for the recommendation.

## 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      STAFFING

### **Union's position**

See Union's position statement (UPS). The Union proposes current language.

### **Employer's position**

See Employer's position statement (EPS). The Employer proposes to decrease minimum manning in the Solid Waste Department by two (2) individuals (one truck driver and one laborer). It further proposes to move the two employees from Solid Waste to the Street Department, thereby increasing that staff by two people.

### **Discussion**

Mr. Climer presented a strong case in support of the City's position to change the minimum staffing in the Solid Waste Department and transfer two employees to the Street Department. Witness, Linda McGill, provided convincing testimony and evidence regarding the need to reduce costs in the Solid Waste Department in order to remain competitive with the many (some 10) private sector entities that pick up refuse in the City.

The Union, through the able testimony of its witness, John Boone, was able to demonstrate the complexities of shifting personnel from one department to another. Issues related to seniority, job bidding, and vacation selections were some of the salient points raised by the Union.

In light of all the factors in such a proposal, the value of saving jobs and preventing layoffs cannot be denied. I find the Employer's proposal to be reasonable and consistent with the need to maintain an effective and efficient Solid Waste Department. After considerable discussion and study of the underlining budgetary data and the need for this change, the following is recommended:

### **Recommendation**

The position of the Employer is recommended under the following conditions:

The two advocates, Mr. Climer and Mr. Hartzel, are directed to meet and negotiate the details of moving two employees from the Solid Waste Department to the Streets Department. If an impasse is reached over any details of this move, the Fact-finder shall be available to help the parties resolve the dispute in a manner determined by the parties.

## **ISSUE 2      HOURS OF WORK**

### **Employer's Position**

See EPS. The Employer proposes adopting a 4 day, 10 hour per day workweek in the Parks Department.

### **Union's Position**

See UPS. The Union proposes current language and to maintain the 5 day, 8 hour per day workweek.

## **Discussion**

The Employer contends that a 4 day, 10 hours per day, workweek is more efficient than 5 eight-hour days. It argues that there is less time spent driving to and from work sites. The Union, through the frank testimony of witness, Pete Spuhler, strongly disagrees with the efficiency argument. It argues that if employees are working on weekends (e.g. Thursday through Monday) it is both difficult and unsafe to work around people who are using the parks in large numbers. It is in effect less efficient and a potential nuisance to the public, contends the Union. The Union also points out that this type of change represents a fundamental shift from the historic 8 hour workday and should be viewed critically.

I concur with the Union's arguments and evidence in this matter. Although there exist employment situations where it makes sense for employees to work 4 ten hours days (and the employees often like it), this type of fundamental change requires a stronger factual basis for a fact-finder to recommend it.

## **Recommendation**

The position of the Union is recommended.

Maintain the current workweek in the Parks Department.

## **ISSUE 3      INSURANCE**

### **Employer's Position**

See EPS. The City proposes to increase the employee prescription co-pays from \$10.00 to \$15.00 for name brand drugs and from \$3.00 to \$8.00 for generic brands.

### **Union's Position**

See UPS. The Union opposes any changes from the current levels of co-pay.

### **Discussion**

The Employer made a convincing argument regarding the need to increase the co-pays for prescription drugs. Over the past several years prescription drug prices have gone up at a rate that has far exceeded inflation. The reasons for these increases are complex and whether they are totally justified is a debatable issue. Nevertheless, the increases have presented difficulties for unions and employers alike.

The last increase in co-pay for generic drugs was a 50% increase, going from \$2 to \$3. However, for name brand drugs, the cost went from \$2 to \$10, a 225% increase. In spite of the large percentage increases, the amounts paid by employees are relatively low when compared to total cost of many prescriptions. It is also a fact that for several years the co-pay for bargaining unit members remained at \$2 for all drugs. It appears that the increases being sought by the Employer are larger because of the Union's ability to keep employee costs down for a long period of time. The reality of rising prescription

drug costs cannot be ignored and eventually some action on a national level maybe needed. Until then, I do not find the increase being proposed by the Employer to be unreasonable when it is viewed in the overall context of the economic package being proposed by the Employer.

### **Recommendation**

The position of the Employer is recommended.

Co-pays for employee prescription drugs shall be increased to \$15.00 for name brand drugs and \$8.00 for generic brand drugs.

## **ISSUE 4      WAGES**

### **Union's Position**

See UPS. The Union is proposing a three-year contract with wage increases of 6% each year of the Agreement.

### **Employer's Position**

See EPS. The Employer is proposing a three-year contract with wage increases of 5% each year of the Agreement.

## **Discussion**

The parties have mutually agreed that increases for the first year are to be retroactive to April 1, 2000. The facts in this case reveal that over the last several contract periods, the bargaining unit has successfully negotiated increases that have exceeded the going rate in most of public sectors in Ohio. It has averaged increases in the high 3% to low 4% range, in spite of the fact that it had to forego a wage increase during one contract year. Therefore, the proposals of each party cannot be viewed as including "catch-up" wages.

The Employer has proposed some language in the area of staffing and prescription drugs that required change of a substantial nature. Changes of this nature come at a price. The Employer appears to be cognizant of the need to pay the price, and it is reflected in its wage proposal of 15% over three years. This proposal is affordable, competitive, and realistic when considering the changes the Employer is seeking in other areas. It is also comparable to the increases provided in the Firefighter's settlement. I do not find compelling evidence that justifies the Union's position of a three year 18% increase.

## **Recommendation**

Wages shall be increased by 5% the first year (retroactive to April 1, 2000); 5% the second year, and 5% the third year of the Agreement.

## **ISSUE 5      HEALTH AND WELFARE FUND**

### **Union's Position**

See UPS. The Union is proposing an increase in contribution for both the Service and the WasteWater contracts. The increase is from \$40.75 per employee, per month to \$45.75 per employee, per month.

### **Employer's Position**

See EPS. The Employer is proposing current language with no change in contribution.

### **Discussion**

The Union provided a persuasive argument for the \$5 increase in contributions. The AFSCME Health and Welfare Fund is a unique benefit that is steeped in the tradition of the health and welfare funds enjoyed by union members in the private sector. It provides important benefits at a reasonable cost due to its efficient administration and the large numbers of people in the fund. It is also important to note that this benefit has been in place for several years. The increase the Union is seeking amounts to a 1.2% monthly increase (spread over a three year period) and is justified, given the totality of the changes incorporated in this report.

**Recommendation**

The contribution to the Health and Welfare Fund shall be increased to \$45.75 per employee per month for all employees covered by the Service and WasteWater contracts.

**TENTATIVE AGREEMENTS**

All other issues tentatively agreed to prior to fact-finding are considered to be part of this report and are recommended to the parties.

The Fact-finder respectfully submits the above recommendations to the parties this 31st day of May, 2000 in Summit County, Ohio.



Robert G. Stein, Fact-finder