

**THE STATE EMPLOYMENT RELATIONS BOARD
IN THE MATTER OF FACT-FINDING BETWEEN**

THE City OF CLEVELAND /
Employer /
-and- /
/
SERVICE EQUIPMENT /
MAINTENANCE EMPLOYEES, /
LOCAL 1 /

Case No: 2016-MED-02-0112
FACT FINDER Betty R. Widgeon

PRESENTED TO:

Donald Collins, General Counsel Bureau of Mediation
State Employment Relations Board
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and

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Local 1

INTRODUCTION

This Fact-Finding arises pursuant to the Ohio Revised Code Section 41117.14 between the Service Equipment Maintenance Employees, Local 1 and the City of Cleveland, Ohio. The City is a municipal corporation and political subdivision of the State of Ohio. Its principal

representative is Patrick Hoban of Zashin & Rich, 950 Main Ave., 4th Floor, Cleveland, Ohio 44113, 950 Main Ave., 4th Floor, pjh@zrlaw.com. The City operates under and is governed by a Charter that was first adopted by the voters in 1913. The Charter provides for a mayor-council form of government with City Council. The City's chief executive administrative officer is the Mayor, elected by the voters for a four-year term. Legislative authority is currently vested in a 17-member Council. Council members serve four year terms and are elected from one of the 17 different geographic wards.

The Service Equipment Maintenance Employees, Local 1 Union is represented by principal Timothy R. Fadel, Esq., FADEL & BEYER, LLC, The Bridge Building, Suite 120, Rocky River, Ohio 44116, tfadel@fadelbeyer.com. Currently, SEME has roughly 80 members. SEME represents the interests of those men and women in full-time employment with the City who work as heavy duty and automotive technicians. These employees are responsible for servicing and maintaining the City's various and sundry equipment vehicles—including police cars, garbage trucks, fire trucks, dump trucks, snow plows, and air field maintenance equipment. SEME members purchase the tools and diagnostic equipment for their jobs at their own expense.

BACKGROUND

In 2016, the Union and the City began negotiations for a successor collective-bargaining agreement ("CBA"). During the course of these negotiations, the parties were able to reach several areas of consensus and have executed tentative agreements addressing resolved proposals. The Fact-Finder expressly incorporates by reference and adopts as her recommendations each and every Tentative Agreement reached by the parties on or before the date of the fact-finding hearing, including those specified below and any other agreements reached by the parties before the final fact-finding recommendations were submitted by the Fact Finder.

By agreement of the parties, the Fact-Finding hearing was held on October 1, 2018 at the Burke Lakefront Airport at 1501 North Marginal Road, Cleveland, OH 44114-3738. During the

first half of the day and before the start of the hearing, the parties engaged in mediation with the Fact-Finder in the attempt to resolve or further narrow their outstanding issues. After lunch break, when the parties failed to reach settlement and it appeared that further mediation would not be fruitful, the Fact Finder began the fact-finding hearing on the remaining issues.

Tentative Agreements

A. Article 15 – Leaves of Absence

Paragraph 57(3) – Amend Paragraph 57(e) to read as follows:

Upon retirement or death, an employee, or his legal representative, shall have the right to convert his accumulated sick leave into **a single payment by check or direct deposit** at the rate of one (1) day's pay for three (3) days of unused accumulated paid sick leave. The pay rate used shall be the last three (2) year average of earnings, O.T., and longevity pay divided by two thousand-eighty (2,080) hours.

B. Article 22 – Docking

Article 22 – Delete Article 22 in its entirety and renumber the remaining articles and paragraphs accordingly.

C. Article 26 – Vacation

Paragraph 91 – Amend the second sentence of Paragraph 91 to read as follows:

By December 1 of each year, employees will be given an opportunity to indicate on a form provide[d] by the City their vacation leave preferences **for the following year**, and promptly [thereafter] a written vacation schedule (by department) will be prepared by the City with priority given to employees according to their departmental or job classification seniority to the exten[t] consistent with operational requirements.

D. Article 29 – Pay Day

Paragraph 100 – Amend the first sentence of the second subparagraph of Paragraph 100 to read as follows:

Employees may be paid either by direct deposit or by payroll debit card (if authorized by the employee).

E. Article 28 – Insurance*

Article 28 – Amend the relevant paragraphs of Article 28 and Contract appendices to reflect the following:

- Effective November 1, 2018, premium contributions will be increased to fourteen (14%)/family and fifteen percent (15%)/single for those employees participating in City-defined wellness initiatives. Non-wellness premium contributions will be eighteen percent (18%)/family and nineteen percent (19%)/single coverage.
- Effective November 1, 2018, modify plan-design on Plus plan as follows:
 - Modify annual deductible to \$750 single/\$1,500 family
 - Increase out-of-pocket maximums to \$1,500 single/\$3,00 family for in-network
 - Out-of-network terms to continue to be set by carrier
(Proposed plan design amendments are attached to Exhibit A).
 - Modify premium contributions for an optional high deductible plan by requiring employees to pay nine percent (9%)/family and ten percent (10%)/single of the City's monthly premium cost for hospitalization, prescription drug, vision and dental coverage. Allow for employee premium contributions to be reduced to five percent (5%)/family and six percent (6%)/single for those employees participating in City-defined wellness initiatives. (Proposed plan design amendments are attached to Exhibit A)
 - Eliminate HMO options
 - Smoking Cessation. The City reserves the right to implement a smoking-cessation policy during the life of the contract.

F. Article 30 – Discipline

Paragraph 104 – Amend the first sentence of Paragraph 104 to read as follows:

An employee who is disciplined must be disciplined within **fourteen (14) calendar** days of the event(s) upon which the discipline is based, or within a reasonable time from the date the City had knowledge of said event(s).

G. Article 31 – Grievances

Paragraph 119 – Add the following language to Paragraph 119:

In the event the City fails to process and/or respond to a grievance in accordance with the time parameters listed herein, the Union shall have the right to automatically advance the grievance to the next step of the grievance process.

H. Article 41 – Duration

Paragraph 144 – Amend Paragraph 144 to read as follows:

The Contract represents a complete and final understanding on all operational policies between the City and the Union, and it shall be effective upon the date of ratification and remain in full force and effect through March 31, 2019. This Contract shall supercede all previous agreements and memorandums.

CRITERIA FOR THE FACT-FINDER

As required by Rule 4117-9-05, the Fact-Finder considered the criteria set forth below as she formulated her recommendations.

1. Past collectively bargained agreements, if any.
2. Comparison of the unresolved issues relative 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.

3. The interest 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 standards of public service.
4. The lawful authority of the public employer.
5. Any stipulation of the parties.
6. Such other factors, not confined to those listed 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 service or private employment.

Positions of the Parties

The City of Cleveland

The City urges that, when looking at comparables, the Fact-Finder take into account the fact that Cleveland has to deal with problems that plague bigger cities while also having to manage budgetary and income restrictions closer to those of smaller cities. The City believes that, considering its financial position, its offer of a 0%, 2%, 2% wage increase plus a \$500 one-time, lump sum ratification bonus is reasonable and generous.

The City cautions that, while it is in a financially viable place now, this is only as a result of extreme cost-saving measures, some of which are not sustainable in the long term. It highlights that there is a long list of unfinished projects that the City needs to complete and vacant positions that the City needs to fill. The income tax increase was necessary for the City's survival, and the citizens who voted in this change expect to see increased services in exchange for their sacrifice. Further, the City notes that, even with the income-tax increase, in 2020, the City is expected to be significantly below the minimum acceptable carryover fund balance of 16% that is recommended by the Government Finance Officers Association.

With regard to comparables, the City points out that the Union's own comparables show that SEME bargaining unit members are in a relatively good position in comparison to outside

employees. None of the Union's comparables demonstrate that its employees are "woefully underpaid."

The SEME Union

The Union points out that, in terms of the overall practical effect of the parties' 2010 and 2013 negotiations, the average annual income for an automobile technician at Step 6 of the wage scale increased at an overall compounding rate of 8%. In terms of actual pay, an automobile technician at Step 6 of the wage scale working in 2010 received a total annual wage increase of approximately \$3,537. During the same period of time, employee health care contributions increased noticeably, and inflation has also been a factor.

The Union asserts that, after many years of wage and healthcare concessions, it approached 2016 with renewed optimism. By late 2015, it was aware that the City had at least stabilized its revenues and expenditures and was no longer facing the risk of fiscal emergency. In February 2016, the Mayor announced that the City was supporting a ballot measure that would increase the municipal income tax from 2% to 2.5%. According to his official statement, the Mayor wanted the citizens to vote to increase the tax base in order to avoid mass layoffs of City workers and devastating decline in the quality of life in Cleveland.

Shortly after the referendum was passed in November, the Mayor announced that his office would raise the pay of its minimum wage workers by 50% —from \$10/hour to \$15/hour. In the Mayor's words, the drastic increase in wages the City pays to its unskilled, non-professional employees was the City's "attempt to be in line with what we believe in....When you don't have a lot of money ... just a few dollars can make a big difference."

The Union notes that the City does not argue inability to pay. Instead, the City takes the position that it has a lot of priorities regarding how to spend the increased tax revenue. The Union stresses that paying a fair wage to its bargaining unit employees should be one of those priorities. It emphasizes that the employees of this bargaining unit are uniquely talented among the City's employees. In order to be successful as a SEME technician, each employee must

undergo years of training and specialized experience as he or she becomes knowledgeable and skilled with respect to the inner mechanical workings of a variety of different vehicles and heavy equipment. SEME members must also purchase tens of thousands of dollars of tools and diagnostic equipment at their own expense. The Union argues that it is appropriate to compare the wages bargaining unit members are receiving with those available in the private sector, where the starting wages are much higher. The City will have to compete with private sector employers to attract new Union members.

At the outset of bargaining, the Union sought a wage increase of approximately 18% in order to make up for what it had lost over the course of the past two contracts. At the Fact-Finding hearing the Union revised its proposal to 2%, 2%, 2%, the position analyzed in this recommendation.

The Fact Finder's Recommendations & Rationale

Recommendations

Given the presentations and submissions of the parties, and in light of the comparables presented at the hearing, the Fact Finder recommends the following with respect to wage increase, signing bonus, and tool allowance:

A. Article 32 - Wages

a. Wage Increase

Effective April 1, 2016: 0%

Effective April 1, 2017: 2%

Effective April 1, 2018: 2%

b. Ratification Bonus

Add the following provision to Article 32:

Ratification Bonus: Employees will receive a \$500, one-time lump sum payment, not rolled into the base pay, payable within a reasonable time following ratification.

B. Article 34 - Tool Maintenance

Amend paragraph 134 to read as follows:

All Union members shall receive a payment of **one thousand (\$1,000)** per year on or before March 1st in each year for tool allowance, tool insurance, and/or tool maintenance.

Rationale

The Fact Finder was impressed by the City's commitment to fiscal responsibility. Careful financial management and oversight, in conjunction with substantial sacrifices from its various employee groups made a significant contribution to the City's overall cost-cutting efforts. This was a true partnership, and City employees, including members of SEME Local 1 were instrumental in allowing the City to stay lean and make only very necessary changes for years. Thus, both sides have reason to be proud of their role in the City's eventual successful return to a position of fiscal viability.

At the fact-finding hearing, both the sides included the cities of Bedford, Hamilton, Middleburg Heights, Toledo, Akron, Columbus, Cincinnati and, Dayton, and the village of Fairview in their comparables. The Union also cited private sector employers in general as comparables. While the City of Cleveland is neither at the top nor bottom of the joint list of comparable cities, when it comes to both overall income, wages, and raises for employees in jobs comparable to those performed by SEME bargaining unit members, it is important to note that some of the comparable cities have contracts that extend beyond the time period of this contract. For that reason, some of the raises and wages reflected in those contracts would reasonably be expected to be higher than the end wage and raise amount contemplated in the instant contract. Additionally, with regard to the private sector employees, it is important to balance the

sometimes-higher starting wages offered by the private sector employers against the indisputably more comprehensive benefits package offered by the City.

Aside from the various cost cutting methods, the City also took the proactive step of raising taxes in 2016. One indicia of the City's movement to a much healthier state is highlighted by the unexpected and rather dramatic 50% pay hike it announced and implemented for unskilled, seasonal employees. Now the City is increasing in financial health and stability and, although the desire to exercise caution will always exist, the necessity to pay the employees of this Union a fair wage for their work comes increasingly into focus.

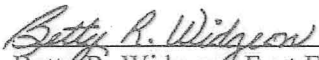
Submitted by:

Betty R. Widgeon
Betty R. Widgeon, Fact Finder

November 5, 2018
November 5, 2018

Certificate of Service

I, Betty R. Widgeon, hereby certify that a true copy of the foregoing Fact-Finder's Report was served by electronic mail via email attachment on November 5, 2018 upon Patrick Hoban Zashin & Rich, 950 Main Ave., 4th Floor, Cleveland, Ohio 44113, 950 Main Ave., 4th Floor, pjh@zrlaw.com and Timothy R. Fadel, Esq., FADEL & BEYER, LLC, THE BRIDGE BUILDING, SUITE 120, Rocky River, Ohio 44116, tfadel@fadelbeyer.com and upon the Ohio State Employment Relations Board (via Donald Collins, General Counsel, Bureau of Mediation—State Employment Relations Board, 65 East State Street, Suite 1200, Columbus, OH 43215-4213) also via electronic attachment, this 5th day of November 2018.


Betty R. Widgeon, Fact Finder

November 5, 2018
November 5, 2018