

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICE
EMPLOYMENT RELATIONS COMMISSION**

*In the Matter of the Fact Finding
between:*

CITY OF IRONWOOD

-and-

MERC Case No. L03 F-5009

**MICHIGAN AFSCME COUNCIL 25
and LOCAL 1538**

APPEARANCES:

FOR CITY OF IRONWOOD:

FOR MICHIGAN AFSCME COUNCIL 25:

Dennis Cossi, Attorney

Roger Smith, Staff Specialist

**FACT FINDER'S REPORT, FINDINGS OF FACT
AND RECOMMENDATIONS**

Background

The City of Ironwood, Michigan is in the western part of the Upper Peninsula of Michigan. By any definition, geographically, Ironwood is the furthest west city in the State. At one time the City had a population in excess of 25,000. Currently, so the Fact Finder is advised, the City has a population in the neighborhood of 6,000 persons. The City employs 31 employees in a bargaining unit represented by Local 1538 of Michigan Council 25 as well as a full-time Safety Department. Among the classifications represented by Local 1538 are Assistant Foreman, Sanitary Engineer Technician, Parks and Recreation Person, Lead Person Streets, Equipment Repair Foreman, Equipment Operator II, Sextant Secretary, Cemetery, Equipment Operator III.

Clerks I, Storekeeper Dispatcher, Equipment Repair Worker III, Water Meter Repairperson, Water Plant Operator, and Custodian. The seniority of employees runs from 1973 to a most recent employee hired on November 10, 2003.

The parties have had a collective bargaining relationship for some time. The most recent contract was effective July 1, 2000 and expired June 30, 2003. The parties commenced bargaining for a successor contract. Proposals were exchanged. The parties were unable to reach agreement. The parties went to mediation. The Union leadership took to its membership a proposal proposed by the City at mediation, which proposal was rejected.

As a result, a petition for fact finding was filed. This Report is a result of the fact finding session held on April 7, 2004.

The Criteria

The aim of fact finding is to guide the parties as to the terms and conditions which, in the view of a neutral, can be the basis for resolving the parties' dispute so as to enable them to reach a collective bargaining agreement. In reaching recommendations, a fact finder is guided by certain criteria. Though in the context of compulsory arbitration, the legislature as to contract disputes involving police and fire services, Act 312 of Public Acts of 1969 as set forth certain criteria that the legislature intended Act 312 arbitrators to follow in arriving at awards. Fact Finders also utilize similar criteria. Thus, in Section 9 of Act 312, the following criteria have been set forth:

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable.

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the ages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Essentially, these criteria address the cost of living, the financial ability of the governmental unit to fund the award, and comparables both internally and with other similarly situated public and private employers in the geographical area involved and do represent criteria followed by fact finders. But there is also Section 9(h) which references additional criteria followed by fact finders.

Among these additional criteria is the bargaining history. The bargaining history includes

the current bargaining history between the affected parties. This criteria becomes most important in Ironwood because the current bargaining history gives some guidance as to a possible settlement. This criteria is most important in reaching the findings of fact and conclusions in this Report.

Another criteria utilized by fact finders is what has been called the "art of the possible." The "art of the possible" in concept means that if the parties were left to their own devices and the public employees involved had the right to strike, the parties as a strike deadline loomed would attempt to compromise in order to avoid a disruption in public service and loss of employee income. The concept is that, in compromising, the parties would review their respective positions and attempt to reach a resolution based on the art of the possible, as the art of the possible is the essence of compromise. Faced with external pressures, the parties would review their respective positions and attempt to consider possibilities in order to reach a compromise.

Just like the bargaining history, the art of the possible becomes of paramount importance in the dispute between the City of Ironwood and Local 1538.

Although there are a number of criteria that are utilized by fact finders in making recommendations, there is no particular "pecking order" as to the criteria to be used. And in some cases, a particular criteria or group of criteria takes on more importance than other criteria in attempting to resolve the dispute.

For reasons to be discussed in this Report, it is the bargaining history and the art of the possible that dictate the recommendations here, after giving consideration where applicable of the other criteria.

The aim of any fact finding report, and in particular this Report, is to guide the parties to a settlement. The bargaining history and the art of the possible leads to the recommendations being made by this Fact Finder.

The Issues

The Fact Finder asked the parties to present the issues from their respective points of view to the Fact Finder. These positions were presented at the opening session of the fact finding. The Fact Finder suggested that some of the issues should be dropped, including the City's proposal concerning reducing the clothing allowance and removing meal allowances, which the City did. With the City dropping these proposals, the Union dropped its proposal as to time and one-half, double time, namely, amending Article 33. The result was that the issues between the parties were wages, duration of contract, medical insurance premiums for active employees, medical insurance premiums for retirees, and funeral leave.

The City's Finances

Central to the dispute between the parties was the recitation of the City's finances. The Union points out that the City, during negotiations, had not plead inability to pay. Nevertheless, during fact finding, the City did present certain financial information. The City's fiscal year is July 1 to June 30. From 1994 to 2003, the City's revenues and expenditures were as follows:

REVENUES									
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
\$2,190,852	\$2,506,627	\$2,251,984	\$2,386,733	\$2,485,403	\$2,675,814	\$2,642,576	\$3,367,534	\$2,931,544	\$2,692,649
EXPENDITURES									
\$2,185,429	\$2,021,413	\$2,585,913	\$2,444,895	\$2,250,073	\$2,575,007	\$2,525,199	\$3,097,967	\$3,087,762	\$2,869,731
NET OPERATING (Profit)									
\$5,423	\$485,214	-\$333,930	-\$58,162	\$235,329	\$100,807	\$117,377	\$269,568	-\$156,218	-\$177,082

This comparison indicates that after four years of budget surpluses beginning in 1998, the

City for 2002 and 2003 experienced deficits. The major portion of the general fund revenues comes from property taxes (48%) and state revenues, both statutory and constitutional (38%). With state revenues constituting such a high percentage of the revenues, it comes as no surprise that the City finances are impacted by the State of Michigan's financial shortfall, which had resulted in the cut of State aid to numerous municipalities, including the City of Ironwood. Though Ironwood did have a State shared revenue as low as \$719,045 in 1994, by 2002 the State shared revenue was \$1,190,930 so that in 2000, 2001 and 2002, the State shared revenue had increased each year by 7%. However, beginning in 2003, as a function of the State's financial shortfall, the State shared revenue was reducing, as illustrated below:

Year	Amount	% Change
2003	\$1,026,736.00	-16%
2004	\$ 930,151.00	-10%

The negative percentages represent the change from the previous year. In 2005, a further reduction in State shared revenue is predicted.

In terms of property tax revenue, the SEV has remained relatively stable between 2001 and 2003. The property tax revenue has remained somewhat stable with property tax revenues for 2001 being \$1,237,408, for 2002 being \$1,273,141 and 2003 being \$1,317,698.

Over the years, the City of Ironwood's costs for personnel in terms of increases over previous years has fluctuated with two elements of particular note:

	1996	1997	1998	1999	2000	2001	2002	2003
Retirement	\$ 140,505	\$ 110,672	\$ 37,491	\$ 14,157	\$ 19,648	\$ 4,779	\$ 52,000	\$ 121,107
Hospitalization	\$ 310,737	\$ 291,232	\$ 290,379	\$ 400,007	\$ 476,654	\$ 494,340	\$ 531,056	\$ 662,034
TOTAL	\$2,548,643	\$2,603,644	\$2,310,822	\$2,688,149	\$2,932,446	\$2,921,003	\$3,016,461	\$3,413,885
Percent Change		2%	-13%	14%	8%	0%	3%	12%

Though the above figures also include gross wages, FICA and life insurance, the Fact Finder has emphasized retirement and hospitalization, noting that the percentage increase in costs from 2002

to 2003 is 12%.

There are two factors involved. Because of investments, there was a period with substantial increases in the stock market between 1999 and 2001 that the general pension plan was virtually fully funded. However, beginning in 2002, with changes in the stock market, it became necessary for the City to contribute at higher rates approaching the rates of 1996 and 1997, which impacted on the City's finances. In addition, particularly between 2001 and 2003, there was a substantial increase in health insurance. By 2003, the percentage of gross wages for the average employee of the City's personnel costs was 65%, whereas hospitalization insurance was approaching 25%.

Beginning in July 2000, the experience with health insurance, based upon a premium for family coverage including projected increases on a monthly basis was as follows:

Year	Premium (Family)	Narrative	Percent Change
Jul-00	\$ 745.66	\$3 Rx Card	24%
Oct-00	\$ 685.12	\$10/\$20 Rx Card	-8%
Jul-01	\$ 855.90		25%
	\$ 754.49	PPO 4 with GAP	-12%
Jul-02	\$ 965.01		28%
Jul-03	\$1,292.57	PPO 1	34%
Jul-04	\$1,551.08	<i>projected</i>	20%
Jul-05	\$1,861.30	<i>projected</i>	20%

Though these figures included projections, the City noted that it has received advice from consultants that the projected increases could be as high as 20% or as low as 9%. The fact is the City has experienced, as has most communities, substantial increases in health care costs for the years in which there was a reduction that came about by a change in the plan. The City also notes that it does have a substantial debt to Blue Cross/Blue Shield based upon experienced

rating. The City, based upon cost projections and the fact that in 2003 ran a deficit – the highest deficit since 1996 – notes that the deficit must be made up in its fund balance. Based upon rising costs primarily in health care, the City projected a fund balance as follows:

Fund Balance effective 7/1/03	\$ 958,702.00
Budget Amendments effective 3/8/04	\$ (175,000.00)
Projected Year End Balance	<u>\$ 783,702.00</u>

if trends continue...

2004-2005 Projected Needs:

<i>Retirement Contribution</i>	\$ (40,000.00)
<i>Lowell II</i>	\$ (100,000.00)
<i>Raises?</i>	\$ (50,000.00)
<i>BC/BS increases?</i>	\$ (130,000.00)
<i>Inflation? (supplies, etc...?)</i>	\$ (20,000.00)

2004-2005 Projected Year end Balance \$ 443,702.00

2005-2006 Projected Year End Balance \$ 103,702.00

***Auditors suggest 3-4 months revenues (\$650,000-\$875,000) be held as reserve fund balance

***as of 6/30/03 the City has a \$623,140 liability for unpaid accrued employee benefits.*

The comment of the Fact Finder is that some of the impact on the fund balance is based upon projections that may not become a fact because the increases may not be as predicted or, by budgeting, the City could control the impact on its fund balance. Nevertheless, as of now, the fund balance has been reduced from 2002 to 2003 and the City does make a point that it does need some cost containment, particularly as to health insurance costs to maintain a reasonable fund balance.

The Bargaining History

1. Health Insurance

Some of the bargaining history was alluded to earlier in this Report under "Background." Central to the dispute between the parties that led to impasse was the issue of increasing health care costs and the impact of same on the City's finances.

The issue of the increasing health insurance costs was exacerbated by the City's need to contribute additional sums as compared to previous years to fund the pension system because of return on investments.

The City believes it is faced with increased costs of up to 20% each year for health insurance, coupled with what the City maintains is an unfunded balance owed the insurance carrier based upon a formula wherein the City experienced a high claim ratio. As a result, the City was offering most moderate pay increases and insisting on a change in health care plan with a change in the co-pays for drugs. The City pointed out that a substantial portion of the health care cost increases came about because of drug usage. Therefore, in the City's view, some containment has to be promulgated in terms of co-pays for drugs.

It was this basic tension that confronted the mediator. The mediator eventually was able to arrive at a potential agreement which the Union took back to its membership.

Among other things, this agreement provided for a higher co-pay. The agreement was rejected almost unanimously by the membership of Local 1538. Thus, the petition for fact finding.

It became clear to the Fact Finder that in order to resolve the dispute and to provide for a wage increase, it was necessary to address the concerns over health insurance costs. Following

discussions with representatives of both parties, the Fact Finder concluded, and thus recommends, a change in program to Blue Cross/Blue Shield PPO II, \$10/\$40 drug co-pay (but no reimbursement MOPD2X) with a \$2,000 fund set up by the City on an annual basis to pay for the co-pay costs incurred for brand drugs above \$20.00, with the City paying \$10.00 and the employee paying \$10.00, with the \$10.00 paid by the City coming from the \$2,000 fund, but once that fund is exhausted, there will be no further City contribution to the co-pay and provided that no family can use more than \$500.00 from the fund plus provisions for \$20 co-pay for doctor's visits and chiropractic visits, as well as a 50/50 co-pay for mental services and \$100.00 deductible single, \$200.00 deductible family. This would be appropriate. The plan change is consistent with the comparables in Gogebic County and it addresses concerns over drug co-pay. Without such an approach, the contract would not be ratified by the City Council and the parties would be left without a contract and still at impasse. What this approach does is avoid premium co-pays – something that the Union has resisted. The \$2,000 annual fund will help offset to some extent the increase in the \$40.00 co-pay for brand drugs. The drug co-pay is an attempt to address cost containment as well as assist employees who might be required to buy brand drugs. On the other hand, employees should, when dealing with their doctors, encourage the doctor to prescribe, where applicable, generic drugs. Finally, the drug co-pay recommended here is less than the mediator proposal that was rejected. However, it does provide for cost containment.

2. Retiree Insurance

The contract does not contain provisions for retiree insurance. This was an issue between the parties and became the subject of discussion during negotiations, mediation and ultimately at fact finding. There should be a provision for health care benefits for retirees. Thus, after

discussion with the parties, the Fact Finder is recommending an adoption of language for retirees which includes a feature which is coordinated with Medicare. This is the first time that the contract has had retiree insurance as a matter of contract benefit. In the view of the Fact Finder, this provision can be accepted by the City Council.

3. Wages

Hopefully, the cost containment provisions set forth in the health care insurance will control the rising costs of health care insurance and make monies available for wages. However, because of the rising costs of health care insurance and the loss of State aid, one must recommend a wage increase that is modest. In doing so, the Fact Finder has considered the comparables, the financial situation in Ironwood, and the art of the possible. For this reason, the Fact Finder is recommending a 2% retroactive pay raise across-the-board to July 1, 2003, and a 2% pay raise across-the-board beginning July 1, 2004.

With the State's financial cutback on State aid for all municipalities, this is a period of modest wage increases. Furthermore, the issue is whether the Report would be ratified by the City Council; that its concern is about rising costs. This explains the recommended increase.

4. Duration

The Fact Finder recommends a three year contract – July 1, 2003 through June 30, 2006 – with a re-opener for wages and health care the third year of the contract. The reason for this is that both parties can review, as of June 30, 2005, the impact that the cost containment for health care has had on the City's finances. If the cost containment has in fact moderated the health care insurance increases, coupled with changes in the State's finances, then the question of wages can again be reviewed the third year of the contract in connection with the comparables and the cost

of living.

5. Bereavement

There were proposals on bereavement. But as the Fact Finder reviewed same, he finds that the current bereavement provisions in the contract can be supported by reference to some of the comparables. Considering the difficulty in these negotiations, the Fact Finder is of the view that there be no change in the bereavement provisions and, therefore, does not recommend same.

6. Grievances

There was also a discussion of grievances that are pending arbitration. The parties, through the urging of the Fact Finder, have agreed to settle the grievances, conditional on an entire contract being adopted, as follows:

- A. Settle RX Card reimbursement to date of grievance, April 8, 2003 (approximately \$7,300.00)
- B. Settle with 6.5 days for Fudaley (52 hours vacation), plus restoration of seniority;
- C. Demolition - Employer agrees to meet with appropriate employers to establish/develop bid documents if required by law.

Art of the Possible Revisited

The Fact Finder emphasizes that the negotiations have been difficult. There has been rejection of one proposal by the membership. During fact finding, the Mayor and a member of the City Council were present, along with the City's Attorney and Manager. As the Fact Finder probed, the Fact Finder noted that when he suggested the recommendations herein, there was an indication that the City's bargaining team would recommend such an adoption of the proposals. In the view of the Fact Finder, no other proposal will be recommended by the City's bargaining team. Under the circumstances, in order to get the City Council to ratify, this is the best that can

be done.

It may be that when this matter goes back to the Union membership, the membership could be reluctant to ratify. But if this Fact Finding Report and the Recommendations are not ratified by the Union membership, then the membership will be without a contract. Negotiations will continue to be prolonged and the consequences might not be as favorable to the membership as in this Recommendation.

Thus, the conclusion is that both parties, including the Union membership, should accept this report, even if reluctantly. The point of the Report is to "get a handle" on cost containment on health insurance, to obtain a moderate wage increase, and then, in about 14 months when the parties will be negotiating for the third year of the contract, the parties will have an opportunity to reassess the financial situation and reflect such reassessment in the third year of the contract.

This is a reasonable approach. It is an approach within the concept of the art of the possible. The Recommendations that follow are based upon the above comments.

The Final Word

The Fact Finder had discussed this matter with representatives of both parties. This Report is what the parties' representatives had advised the Fact Finder that they would recommend to the parties, with the City team recommending the adopting to the City Council, and the Union representatives urging adoption by the Union. As the Fact Finder has suggested and will state again, this is the best that can be done in this contract negotiation round. The Fact Finder urges both parties to adopt this Report as their contract, no matter how reluctantly.

RECOMMENDATIONS

The Fact Finder recommends the following in order to settle the parties' contract:

1. Duration. The contract shall run from July 1, 2003 through June 30, 2006 with a re-opener the third year of the contract for wages and health care.

2. Wages. 2% increase across-the-board retroactive July 1, 2003. 2% across-the-board effective July 1, 2004.

3. Health Insurance for Active Employees.

Change to CB-2

Rx - \$10/40 - no reimbursement MOPD2X

\$100.00 - deductible single

\$200.00 - deductible family

Office Call - \$20.00

Chiro Visit - \$20.00

Mental health - 50/50

Dental - Same

Vision - Same

\$2,000.00 drug fund

No more than \$500.00 per employee family

First \$20.00 paid by employee on name brand for reimbursement

4. Health Insurance for Retirees. Amend the retiree health insurance provisions to provide that current employees of the City who commenced employment with the City before March 8, 2004 be eligible for health insurance coverage through the City Retirement System as follows:

- a. Employees who retire on or after attaining age 55, but before attaining age 60, shall be eligible for retiree only coverage.
- b. Employees who retire on or after attaining age 60 shall be eligible for retiree coverage and coverage of a spouse to whom the retiree is married

on the date of his or her retirement from the City.

All retiree health insurance coverage provided through the City retirement System shall cease upon the attainment of age 65. In no event shall an employee hired on or after March 8, 2004 be eligible for retiree health insurance coverage through the City Retirement System or otherwise.

5. Settlement of the grievances as outlined in this Report.
6. All other provisions as agreed to by the parties.


GEORGE T. ROUMELL, JR.
Fact Finder

April 9, 2004