

# Orchestra says recent offer the final one

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The day after the Louisville Orchestra musicians unanimously rejected management's latest contract offer, orchestra CEO Robert Birman said he and his team are done negotiating with the musicians for a new contract.

"I believe we are at the end of that process now," Birman said Wednesday. "There is nothing more to give the players. If they want to work, they need to come back to work, and there's nothing left for the orchestra to put on the table."

"The ball is in the musicians' court," he added, noting, "We've moved as far as we can move."

Kim Tichenor, the players' negotiating committee chair, had said earlier in the day that the musicians want to continue negotiations.

"The last offer was definitely an improvement and a big step in the right direction, so we are here and still willing to negotiate," she said.

But late Wednesday afternoon, Henri Mangeot, the Louisville Labor Management Committee executive director who has been helping mediate the negotiations since the summer, confirmed that management's position is that it had made its "last, best and final offer" and that the negotiations could be considered at a bona fide impasse.

"The orchestra is not under any obligation to negotiate further," Mangeot said, adding, "It appears that the two sides pretty much have their feet set in concrete."

An impasse means that the orchestra can now legally implement its final offer and its terms and conditions of employment on the union and its members.

Mayor Greg Fischer's office issued a statement early Wednesday evening, saying, "My administration has met multiple times with both management and musicians at the negotiation table to explore all possible settlement approaches. We were certainly hopeful that an agreement was near and are sad to hear that there are apparently irreconcilable differences between the two sides. We still firmly believe that an orchestra is an important piece of the arts and cultural fabric of the city."

As with an earlier offer, management's most recent proposal, sent to the musicians Friday, would have given them a minimum weekly salary of \$925 for each season through 2017, plus 30 weeks of guaranteed work annually, except for a 13-week

season beginning this January. It also required that the size of the orchestra be at 55 players by May 2013.

Other details of the offer -- most of which was hashed out in several long meetings between the two sides last week and sent to the musicians in written form late Friday - were not made public. But both Birman and Tichenor said it contained considerable changes from previous proposals.

Tichenor said that management had eased what the players had considered stringent working conditions outlined in previous proposals.

For example, Tichenor said, the previous offers would have required musicians to work in more intense heat than allowed in their previous contract, which expired May 31, and stipulated that the orchestra provide the musicians with access to fewer toilets when playing at nontraditional venues.

But the musicians were not satisfied with other parts of the offer that the orchestra did not modify, including the requirement for the orchestra to have 55 players by mid-2013.

"The offer doesn't provide any job security," Tichenor said.

Both she and Birman said the new offer was also more specific about defining what outside work would be disallowed. For example, it forbids players to work for Keep Louisville Symphonic, a group the musicians formed early this year to raise awareness as well as money for orchestral music after the orchestra filed for Chapter 11 bankruptcy last December.

Tichenor said those terms were still too restrictive and, to her knowledge, are not followed by any other orchestra in the country.

Birman said Wednesday that the next matter of business with the musicians is a Dec. 2 hearing before the Kentucky Office of Employment and Training on the orchestra's move to have the musicians' unemployment benefits suspended. Management insists that the musicians are on strike and should not be receiving such assistance.

The orchestra had agreed to drop the claim if the musicians accept the most recent contract offer and remove the orchestra from American Federation of Musicians' "unfair list." The union moved to have the orchestra placed on the list in August after Birman said during a U.S. Bankruptcy Court hearing that the orchestra could pursue agreements with nonunion musicians or sidestep the union to make agreements with member musicians.

The orchestra is attempting to do that now. After the musicians turned down an offer late last month, management put out notices across the country that it is accepting

applications for "qualified symphonic musicians looking for permanent employment to replace musicians who are on strike." The orchestra is offering a minimum of 30 weeks of employment, benefits and a minimum weekly salary of \$925.

On Sunday, orchestra board president Chuck Maisch said that the orchestra has received some applications but declined to say how many.

Also in late October, the musicians filed a charge with the National Labor Relations Board, claiming that orchestra officials have refused to bargain in good faith. It accuses orchestra officials of engaging in regressive bargaining and placing unreasonable deadlines on accepting management proposals.

NLRB officials are investigating the charge, which Birman has called "baseless."

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