

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In the Matter of Fact-Finding Between)	<u>FINDINGS AND RECOMMENDATIONS</u>
)	
AFSCME, OHIO COUNCIL 8,)	
LOCAL 1657)	CASE NO. 01-MED-01-0059
)	
and)	December 12, 2001
)	
CITY OF WILLOUGHBY)	Charles Z. Adamson, Fact-Finder

For AFSCME, Ohio Council 8, Local 1657

James A. Ciocia, Staff Representative
1603 East 27th Street
Cleveland, Ohio 44114-4217

For the City of Willoughby:

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6800 West Central Avenue, L-2
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The undersigned was appointed Fact-Finder in this dispute by the State Employment Relations Board (SERB) on March 1, 2001 pursuant to Section 4117.14(C)(3) of the Ohio Revised Code in respect to a unit of the City of Willoughby employees employed in various classifications providing services in streets, traffic, sewer, wastewater treatment, parks and recreation and building and grounds. The applicable collective bargaining agreement expired March 31, 2001.

1. HEARING

After mediation the case proceeded to hearing on November 2, 2001 as to the issues where the parties had reached an impasse. The issues remaining at an impasse are the following:

- | | |
|-------------------------------|----------------------------------|
| 1. Funeral Leave | 6. Wages |
| 2. Vacancies and Job Postings | 7. Commercial Drivers' License |
| 3. Vacation | 8. P.E.O.P.L.E. Checkoff |
| 4. Compensatory Time | 9. Heavy Mechanic Classification |
| 5. Temporary Transfer | |

II. CRITERIA

In compliance with Ohio Revised Code, Section 4117.14(C)(C4)(e) and Ohio Administrative Code Rule 4117-9-05(J) and 4117-9-05(K), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this report:

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues 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

standard of public service;

- (4) The lawful authority of the public employer;
- (5) Any stipulations 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 in the private employment.

ISSUES AND RECOMMENDATIONS

Funeral Leave

Both the Employer and the Union proposed changes to Article XXI, Funeral Leave, which currently appears in the last collective bargaining agreement between the parties as follows:

ARTICLE XXI. FUNERAL LEAVE

“21.1 An employee shall be granted time off with pay for the purposes of attending the funeral upon the death of a member of the employee’s family. The employee shall be entitled to a maximum of three (3) work days for each death in his immediate family. For purposes of this Article, “immediate family” shall be defined as to only include the employee’s spouse, children, step-children, parents, sisters, brothers, parents-in-law, aunts, uncles, grandparents, and grandchildren, along with any other relatives residing with the employee at time of death.

21.2 If an employee requires more time than contained in the above section, he may utilize vacation time, sick leave, or leave without pay, with the approval of the employee’s Supervisor.”

The Employer’s Position

The Employer proposes to amend Article XXI by changing the second sentence in Article XXI.1 as follows:

“The employee shall be entitled to a maximum of three (3) work days for the death in his immediate family, up to and including the day of interment.”

The Employer asserts that the new language provides a reasonable amount of time for a

funeral leave for its employees and that this provision should be recommended for adoption. The Employer referred to a situation where there was multiple deaths of relatives. In that case the employee would be entitled to up to three days including the date of interment. The Employer used as an example the death of a parent on a Monday. The employee would be entitled to Monday, the date of death, off; Tuesday off; and Wednesday, the day of interment, off. In a situation where the death occurred on Friday, the employee would receive Friday off and Monday, the day of interment, off. The Employer noted that its proposal as to funeral leave changes was included in labor contracts temporarily agreed to by the Employer's collective bargaining units of police sergeants and lieutenants and employees in the fire department.

The Union's Position

The Union proposes that the title of Article XXI be changed from Funeral Leave to Bereavement Leave. It also proposes that Section 21.1 be amended to read as follows:

"An employee shall be granted [time off] three (3) days off with pay for the purposes of attending the funeral upon the death of a member of the employee's immediate family and participating in other activities related to the death. [Delete second sentence: [The employee shall be entitled to a maximum of three (3) work days for each death in his immediate family.]"

The Union maintains that the Employer's proposal to change the Funeral Leave is an erosion of existing benefits enjoyed by the employees in this unit. Granting the Employer's proposed changes would result in an employee not being able to take paid time off after interment.

The Union relies on two grievance determinations in respect to Article XXI issued by the Employer's Law Director, John W. Wiles, on February 2, 1996 and August 26, 1999. In both cases a supervisor's approval of three days Funeral Leave was overruled by a higher ranking

supervisor who decided that the grievant was only entitled to two (2) days funeral. Law Director Wiles made grievance determinations favoring the Union after conducting hearings at the Third Step as the designee of Mayor David E. Anderson. In the 1996 decision, Wiles stated in the Opinion the following which was repeated in the 1999 decision:

“The agreement is ambiguous. However, sentence two (2) of Section 21.1 clearly states that the Union member shall have three (3) days Funeral Leave. It is silent as to whether or not that this is discretionary with the City. It should be noted that Section 21.2 does not grant discretionary powers to the City. We therefore are of the opinion that the three (3) days are an absolute right to be granted by the City and there is no discretion vested in the City.”

The Union notes that the Employer’s proposed change as to a maximum of three work days for the death in the immediate family, up to and including the day of interment, is confusing. It could create problems if there were deaths of two members of the immediate family within days of each other. Further, the Employer’s proposed changes are opposed because the Union asserts that they represent a constriction of the leave benefit its members currently enjoy. It indicates that currently there are no restrictions in respect to when the leave is taken in relation to interment. This time could be required because of necessary out of town travel, the need to assist other family members with travel needs or in respect to matters concerning the decedent’s estate. The Union also notes that the Employer’s proposal would result in Jewish employees being treated differently because in most cases Jews are buried within twenty four hours of death. As a result, Jewish employees would be deprived of funeral leave days.

In further support of its argument the Union referred to liberal funeral leave provisions included in service department’s contracts in five Cuyahoga County and one Lake County community.

Findings and Recommendations

The Employer has not proved its case in respect to its new Funeral Leave proposals and it is recommended that said proposals should not be adopted. Current society is much more mobile than ever before. Deaths in an employee's family can occur thousands of miles away from an employee's residence which would necessitate the use of three consecutive days funeral leave. The Employer's provision would also create problems if there were multiple deaths in an employee's family. Accordingly, in view of the above and the record as a whole, it is recommended that the Funeral Leave provision remain the same as said provision in the current contract between the parties.

VACANCIES AND JOB POSTINGS

The Union's Position

Currently Article 26.4 reads as follows:

"26.4 An employee awarded a higher paying job under this Article shall be placed in the pay step of the new job classification that gives the employee a pay raise of at least Twenty-Five Cents (\$.25) per hour."

The Union proposes that language be added to reflect the following:

"...an employee who was promoted can only be dropped one pay rate and he must receive at least a \$.50 per hour raise."

The Union notes that the current contract does not include a longevity benefit. Rather, it contains a rate schedule which provides for increases from one rate to the next rate depending upon the employee's length of service. The current schedule moves from the "A" Rate, the starting rate for new employees, to the "D" Rate for employees who commence their tenth year of service. The Union indicates that the "D" Rate serves as a partial substitute for a longevity benefit.

Currently, in accordance with Paragraph 26.4, an employee who was promoted to a higher paying job must be placed in a pay step in the new classification which results in an increase of \$.25 an hour at a minimum. The Union uses as an example an employee classified as Equipment Operator One receiving \$16.93 an hour at the "C" Rate. If promoted to Equipment Operator Two, he would be placed in the "B" Rate of Equipment Operator Two since that rate affords him a minimum of \$.25 per hour increase. The Union argues that although the operator was at the "C" Rate for Equipment Operator One based on years of service in that classification, his years of service are discounted when he receives a promotion. This results in diminishing the value of this provision as a partial substitute for a longevity benefit. The Union believes the solution to this problem is to grant an employee who is promoted at least a \$.50 an hour increase which would be appropriate for an employee's years of service.

The Employer's Position

The Employer opposes the Union's \$.50 minimum proposal noting that if an employee is promoted the employee makes more money and has the potential to make substantially more money. The Employer believes that the current method of compensation requiring wages to be based on classification is a fair and equitable provision and should not be changed.

Findings and Recommendations

It is concluded that the Union has not proved its case in respect to this proposal. In view of the overall wage and compensation provisions and the recommendations to be made as to wages in this matter, it is recommended that Article 26.4 remain the same as in the current agreement.

VACATIONS

The Employer's Position

The Employer proposes to make the following changes, which are underlined, in Article 30 of the current contract as follows:

“30.2 All vacation time shall be credited on January 1st of each year and shall be for the time of employment in the active pay status ending on the immediately preceding January 1st.

30.3 Employees who have worked less than one (1) year for the Employer shall receive one (1) day for each full month worked in the active pay status, prior to January 2st of the vacation year, not to exceed ten (10) days. All other employees shall be entitled to accrue up to a ten (10) day vacation period in and after the vacation year in which such employee completes two (2) years of service in the active pay status with the City; up to fifteen (15) days vacation in and after the vacation year in which such employee completes five (5) years of service with the City; up to twenty (20) days vacation in and after the vacation year in which such employee completes ten (10) years of service with the City, up to twenty-five (25) days vacation in and after the vacation year in which such employee completes fifteen (15) years of service with the City; and up to thirty (30) days vacation in and after the vacation year in which such employee completes twenty (20) years of service with the City of Willoughby. For purposes of determining the amount of vacation accrued in the prior year, an employee will have accrued one twelfth (1/12) for each full month (30 calendar day period) in the active pay status of the respective level of entitlement.

Active pay status shall be defined as an employee who is receiving compensation for hours worked, vacation, holiday, sick leave, injury leave, funeral leave, and paid administrative leave.

30.4 Full-time employees previously employed on a regular full-time basis by the State of Ohio or a political subdivision thereof, may, at the time of hire, credit such previous service credit for the purpose of accruing vacation leave, up to a maximum of five (5) years. Previous service credit shall only be credited for the purpose of future vacation accrual.

Such prior service credit will be granted after one (1) full year of employment with the City of Willoughby as a full-time employee.

30.5 If, because of the needs of the Employer, an employee who has previously-scheduled vacation time is unable to take such vacation time, the employee shall

have the option of either carrying over such vacation time to the next calendar year or receive pay for such time at the end of the year in which it was to be taken. There will be no other carry-over of vacation time from one year to another.”

The Employer argues that both the Police Command contract unit and the Fire Fighter’s contract unit have agreed to the concept of the Article 30 changes which the Employer proposes. The Employer notes that there are minor changes in the police and fire contracts in respect to the definition of active pay status. It also points out that fire fighters work different shifts than other Employer employees.

The Employer is opposed to the Union’s proposed amendments to Sections 30.4 and 30.9 providing for carrying over vacation time to the next calendar year. It indicates that none of the Employer’s collective bargaining agreements currently allow for carrying over of vacations. It points out that an employee can currently receive up to six weeks vacation. According to the Employer, carrying over vacation would interfere with the Employer’s ability to get various jobs accomplished by unit employees. It also notes that currently unit employees have an average of about four and a half weeks accrued vacation.

The Union’s Position

The Union proposes the following changes to Article 30, Vacations set forth in darkest type:

“30.4 If, because of the needs of the Employer, an employee who has previously scheduled vacation time is unable to take such vacation time, the employee shall **have the option of either carrying over such vacation time to the next calendar year or receiving [receive] pay for such time at the end of the year in which it was to be taken.**

30.9 Employees entitled to more than two (2) weeks of vacation per year shall use the first two (2) weeks of their vacation in blocks of at least one (1) week. **Such employees shall be permitted to carry over up to five (5) days of vacation to the next calendar year. Such employees may also use a maximum of two (2) days of their vacation leave in increments of four (4) hours.** Employees entitled to two (2) weeks or less vacation leave per year shall use at

least one (1) week of their leave in a block and may carry over up to three days of vacation to the next calendar year or may also use a maximum of two (2) days in increments of four (4) hours.”

The Union points out that its amendments would allow the employees the opportunity to carry over vacation time. Currently, if the Employer cancels previously scheduled vacation time due to operational needs, an employee can only be paid for such time.

The Union proposed changes would provided employees with the option of either carrying over such time to the next year or being paid for it. The Union points out that several other communities allow their Service Department employees to carry over vacation time. These communities have a variety of procedures in their contracts providing some sort of vacation time carry over options to Service Department employees.

The Union notes that during negotiations it advised the Employer that this proposal was advanced to offer employees more flexibility as to how they could chose to use vacation time. It argues that the Employer failed to provide any legitimate reasons for rejecting this proposal. The Union characterized it as a modest proposal, particularly since the Union did not consider this an economic issue.

The Union also opposed the Employer’s changes in respect to vacation time, arguing that the Employer was asking the Union to give up something in the contract and providing nothing in return.

Findings and Recommendations

The undersigned recommends that the Vacation Article in the collective bargaining agreement remain the same in a new contract between the parties. In view of the record as a whole and the statutory guidelines referred to above, it is concluded that neither the Employer nor

the Union has made a persuasive case in support of proposed amendments to Vacation - Article 30.

COMPENSATORY TIME

The Union's Position

The Union proposes to add a new section to Article 30 providing for employees accrual of compensatory time up to a maximum of forty hours. It also proposes that all compensatory time earned in excess of forty hours should be paid in overtime and should not be accruable. The Union proposes that the compensatory time may be used in four hour increments by unit employees without prior notice to the Employer. The Union points out that, except for part time firefighters, employees in the bargaining unit involved herein are the only group not permitted to have compensatory time to be used by the employee instead of being paid for overtime. The Union argues that this provision gives the employees a choice between taking compensation or time off for their overtime work. It maintains that it could also save the Employer money with respect to the use of sick time if the employees had the option of using sick time for doctor's appointments. The Union maintains that it is not an economic issue and should be granted to the unit involved herein.

The Employer's Position

The Employer opposes this proposal pointing out that the service department operation is different than other bargaining units that have part time employees to fill in for full time employees. It notes that it is the largest department and it does not have part time employees like the police and fire departments.

Findings and Recommendations

The undersigned concludes that the Union has not made a persuasive case in support of compensatory time provisions in the instant collective bargaining agreement. In view of the fact that there are no part time employees in this department to cover situations where an employee takes compensatory time in four hour increments without prior notice, granting this provision would affect the efficient operation of the various areas where employees are covered by the instant collective bargaining agreement. Accordingly, it is recommended that the Union's compensatory time proposals not be adopted.

TEMPORARY TRANSFERS

The Employer's Position

The Employer proposes to amend Article 31, Temporary Transfers, in the applicable collective bargaining agreement as follows:

“If the Employer assigns an employee to work in a higher classification on a temporary basis for a period in excess of eight (8) consecutive hours, the employee will be compensated at a rate in the classification wage scale they are temporarily assigned that provides an increase. In such cases where the employee's assignment exceeds eight (8) consecutive hours compensation shall be paid from the start of assignment.”

The Employer's proposal would result in modifying current contract language to pay for work performed outside of the classification for time in excess of eight hours. Its supports this position by referring to provisions in current contracts involving the police dispatcher's unit, the command officer's unit and the firefighter's unit.

The Employer opposes the Union's proposal as to temporary transfers indicating additional costs would result in granting it. It would, among other things, create a financial burden in the Recreation Department which employs a number of part-time employees in the summer season.

The Union's Position

The Union proposes an amendment to the Temporary Transfer section providing that if an employee is assigned to work with court workers, part time employees or seasonal employees the employee shall receive an additional wage of \$1.00 per hour while working on this assignment. The Union proposal also indicates that if more than one employee is assigned to such work only the senior employee shall receive the additional compensation.

The Union points out that court workers are individuals assigned by the court to perform community service work as part of or all of the sentence imposed by the court. Unit employees assigned to work with court workers, part time employees or seasonal employees are required to assume additional responsibilities including offering instruction and monitoring the work to see that its performed properly. The Union justifies the additional premium for this work by arguing that employees are being required to serve in the role of a supervisor or a foreman. As a result, according to the Union, the requested premium is identical to the premium currently paid to employees assigned to work as temporary supervisors.

The Union opposes the Employer's proposal in respect to Temporary Transfers referring to it as an erosion of a current benefit. The Union claims that the Employer's proposal deprives employees of income for providing a valuable service and there would be nothing to prevent the Employer's abuse of this provision.

Findings and Recommendations

It is recommended that neither the Employer's nor the Union's proposed changes to the Temporary Transfer provision be adopted. The Union has not substantiated its proposal which would result in additional costs for the Employer, particularly in the Recreation Department where a large of number of part time employees are used. In respect to the Employer's proposed

changes to the Temporary Transfer provision, based upon the record in this matter and the statutory guidelines, it is recommended that the status quo remain in respect to the Temporary Transfer provision. As a result it is recommended that the Employer's proposal in this respect not be adopted.

WAGES

The Union's Position

The Union has taken the position that it will accept a general wage increase to be given to other bargaining units by the Employer - 4% the first year, 3 1/2% the second year and 3 1/2% the third year. The wage increase will be effective April 1, 2001 for the first year, April 1, 2002 and April 1, 2003 for the third year.

The Union further proposes that there be an increase in the differential between the "C" rate and the "D" rate. At present employees who move from the "C" rate to the "D" rate at the beginning of their tenth year receive an additional \$.20 per hour. The Union proposes that this increase be changed to \$.30 per hour. The Union notes that most contracts with longevity provisions include further wage enhancements beyond ten years. It refers to longevity contracts in several communities which include increases for employees with more than fifteen years seniority.

The Union is also requesting the creation of a new rate, an "E" rate, which would entitle eligible employees to an additional \$.30 an hour. It estimates that there are currently twenty four employees at the "D" rate who would qualify for the new "E" rate. In addition, there are fifteen other employees at the "D" rate who would be eligible for the additional \$.10 per hour increase to the "D" rate if the Union's proposal was adopted. According to the Union, the three year cost of establishing the "E" rate would be approximately \$45,000.00 and the estimated three year cost of

increasing the "D" rate from \$.20 to \$.30 an hour would be approximately \$9,300.00. Granting the Union's proposal both as to the "D" rate and the establishment of the new "E" rate would cost the Employer a total of \$54,300.00 for the life of a three year contract.

The Union argues that its proposals are a modest attempt to recognize the tenure of employees who have reached ten or fifteen years service. The Union maintains that the Employer can afford these increases because of an unencumbered fund balance carryover from the year 2000 of over six million dollars.

The Employer's Position

The Employer asserts that it is in favor of the general wage increase requested by the Union referred to above providing the Union goes along with the rest of the Employer's contract proposals. In addition, the Employer proposes a 3% increase each year of the contract for steps "A", "B" and "C" to be paid retroactively through April 1, 2001. The Employer also proposes that the current "D" step be set at \$.20 above the "C" step. The Employer is opposed to the Union's proposal for a new "E" step.

The Employer provided a wage comparison of neighboring communities in Lake and Cuyahoga Counties for the year 2000 reflecting the top hourly rates for operators and mechanics. The average maximum rate per hour for operators in this grouping, excluding the Employer, was \$17.16 an hour. The average hourly rate for mechanics, excluding the Employer, was \$18.18 an hour. In 2000 the maximum hourly rate for the Employer's operators was \$17.24 an hour. \$18.90 per hour was the maximum hourly rate for mechanics working for the Employer during this period.

Findings and Recommendations

It hereby recommended that the following general wage increase be granted in this matter:

Effective April 1, 2001 - 4%
Effective April 1, 2002 - 3 1/2%
Effective April 1, 2003 - 3 1/2%

It is also recommended that steps "A", "B" and "C" be increased by 3% in each year of the contract retroactive to April 1, 2001. It is further recommended that the current "D" step be set at \$.30 per hour above the "C" step in recognition of the seniority of a number of employees in the contract unit.

Based on the record evidence and the statutory criteria, it is recommended that no "E" step be added to the contract as proposed by the Union. It is noted that in accordance with the Union's calculations this increase would cost the Employer an additional \$45,000.00 for the life of the agreement. All economic proposals recommended in this report shall be retroactive to April 1, 2001.

COMMERCIAL DRIVER'S LICENSE

The Employer's Position

The Employer proposes to delete Sections 1 through 6 in Article 38 of the current contract in respect to commercial driver's licenses and to add the following language:

"NEW 38.1 Where it is a requirement for his or her position, any employee who fails to maintain a CDL for reasons other than violations of law, will be placed in a vacant position for which he or she possesses the qualifications. If such a vacancy is not available, the employee will be placed on a sixty (60) day leave of absence without pay in order to have further opportunity to regain his CDL. The employee may be terminated if he fails to regain CDL certification, fails the physical examination, or does not pass the appropriate test within the sixty (60) day leave period, provided there remains no vacant position as described above. Employees may also be terminated if the loss of a CDL is based on a violation of law or if an employee becomes uninsurable or premiums become unreasonable.

NEW 38.2 Provisions of Section 38.1 above, as appropriate, shall also apply to positions which require non-CDL State of Ohio driver's licenses."

The Employer notes that Sections 1 through 6 of Article 38 were developed over nine

years ago when commercial driver's licenses first became required by the Department of Transportation. According to the Employer, these first six paragraphs are not relevant to the current situation as to commercial driver's licenses since part of the requirements for new hires or promotions is holding a commercial driver's license. As a result, language referring to training is no longer necessary.

The Union's Position

The Union has no objection to the Employer's proposed changes to Article 38 with the exception of the last sentence making reference to premiums becoming "unreasonable". The Union asserts that the word "unreasonable" is an ambiguous term and that this contract provision should contain a definition of the word "unreasonable."

Findings and Recommendations

The undersigned is aware of potential problems that could arise as to the definition of "unreasonable" in respect to insurance premiums. Also, the undersigned is cognizant of the fact that the Employer would like some protection in the event an employee could only continue in a CDL required position as a result of the Employer paying an astronomically high insurance premium. That situation would in effect be tantamount to the employee being declared uninsurable by an insurer.

Under the change of circumstances as to CDL, it is recommended that new paragraphs 38.1 and 38.2 as proposed by the Employer and agreed to by the Union be adopted into the applicable collective bargaining agreement. However, any problems or disputes in respect to the meaning and definition of the word "unreasonable" in 38.1 would have to be deferred to resolution by an arbitrator in the grievance arbitration procedure. There does not appear to be

any practical solution for the undersigned to recommend as to the definition of “unreasonable” in new 38.1.

P.E.O.P.L.E. CHECKOFF

The Union’s Position

The Union proposes that language in respect to checking off a voluntary contribution to its P.E.O.P.L.E. be made from the pay of unit employees upon the Employer’s receipt from the Union of individual written authorization cards voluntarily executed by an employee. According to the Union, P.E.O.P.L.E. is the AFSCME International Union’s fund for public employees organized to promote legislative equality, a Union effort to educate its members as to politics, the political process and elections. The Union asserts that this would be a positive step to remedy chronically low voter turnout and cynicism on the part of people as to the election process. The Union provided a list of fourteen collective bargaining agreements in the Cleveland area which contain the P.E.O.P.L.E. checkoff.

The Employer’s Position

The Employer is opposed to this position indicating that it is a non-mandatory subject of bargaining. The Employer does not believe that such a provision should be included in the recommendations of a fact-finder in this type of proceeding.

Findings and Recommendations

It appears that the fourteen employers who agreed to the P.E.O.P.L.E. checkoff did so in the context of the collective bargaining process. If, as in the instant matter, an employer is philosophically opposed to this type of checkoff it does not appear to be within the purview of the undersigned to make a positive recommendation in this respect. Accordingly, it is recommended that the Union’s proposal as to P.E.O.P.L.E. checkoff not be adopted.

HEAVY MECHANIC CLASSIFICATION

The Union's Position

The Union proposes the addition of this classification to Appendix A of the contract which lists all job classifications because, at the present time, the only mechanic classification in the contract is that of auto mechanic. It argues that over the years the jobs of auto mechanics have evolved to the point where some work on all of the city's heavy equipment while others continue to work only on automobiles. It notes that work on heavy equipment is quite sophisticated and requires a greater amount of training and experience as compared to the work of the typical auto mechanic. As a result, the Union believes that the heavy auto mechanic position should receive \$1.00 per hour more than the auto mechanic position. The Union provided evidence that the cities of Mentor, Eastlake, Wickliffe and Mayfield Heights have collective bargaining agreements where there is a differentiation as to the mechanic rate so that two mechanic classifications exist with the attendant differentiation in pay scale.

The Employer's Position

The Employer is opposed to the Union's proposal indicating that it is not part of the overall economic package presented to the Union. Currently there are two mechanics that can perform all the mechanics functions. There is one mechanic who can only work on automobiles; the record reflects that he is retiring and will not be replaced. As a result, the Employer will end up with two fully qualified mechanics and one job opening.

Findings and Recommendations

Evidence indicates that the four communities used as examples by the Union in support of the new Heavy Mechanic classification have two rates of compensation for mechanics. The Eastlake hourly rates are lower than the other three communities. However, the Eastlake contract

contains a longevity payment article providing substantial annual longevity payments which increase at the rate of one hundred (\$100.00) dollars per year beginning at the employees fifth (5th) year of employment running to the twenty fifth (25th) anniversary of employment.

The recommendations as to wages for the three years of the instant contract, if adopted, will provide fair and equitable compensation to the auto mechanics. It is noted that the auto mechanics are highly skilled and perform work on autos, trucks and heavy equipment. However, in view of the record evidence and the statutory criteria, it is recommended that the Union's proposal in this respect not be adopted.

Tentative Agreements

The parties agreed to the tentative agreements which are attached hereto. They are incorporated into these findings and recommendations.


Charles Z. Adamson

December 12, 2001

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ARTICLE 13. PERSONNEL FILES

Delete Current Article 13

13.1 An employee shall have a reasonable opportunity to review his/her individual personnel records as maintained by the Employer. Employees shall be notified of written material provided to a third party which does not pertain to the normal course of business such as credit references, insurance, pension, Workers' Compensation, etc.



13.2 An employee shall be provided, ~~with~~ a copy of any document concerning the performance of his/her duties or character placed in his/her formal personnel file, and shall have the right to have placed in such file his/her statement concerning any such document. This copy shall be given within twenty (20) days of the time it is placed in the personnel file.

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ARTICLE 22. INJURY LEAVE

- 22.1 In cases uncontested by the Employer, wWhen an employee is injured in the line of duty, while actually working for the Employer, necessitating his absence from work for more than seven (7) calendar days, he shall be eligible for a paid leave not to exceed 90 calendar days. **The employee may be required to providing he files for Workers' Compensation and signs a waiver assigning to the Employer those sums of money he would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this article.**
- 22.2 If at the end of this 90 day period the employee is still disabled, the leave may, at the Employer's discretion, be extended for additional 90 calendar day periods or parts thereof.
- 22.3 The Employer shall have the right to require the employee to have a physical exam by a physician appointed by the Employer resulting in the physician certification that the employee is unable to work due to the injury as a condition precedent to the employee receiving any benefits under this article.
- 22.4 The designated physician's opinion shall govern whether the employee is actually disabled or not, but shall not govern whether the injury was duty related or whether the Employer should extend the leave.
- 22.5 If, during the three (3) calendar years following the original date of injury, the disability reoccurs, and is so certified by a licensed physician **which is not contested by the Employer**, the injured employee shall be compensated, pursuant to Sections 22.1 and 22.2 hereinabove, for such period or periods of time that remain unused from previous disability pay periods associated with the same injury, for absences greater than seven (7) days.

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ARTICLE 32. INSURANCE

32.1 The City will make available to all full-time employees and elected officials, a program for hospitalization and medical protection, dental/orthodontic insurance, paid prescriptions, vision, and hearing insurance coverages. Such program shall be solely determined by the City except that the level of coverage shall be maintained as a substantially equal as that in effect January 1, 2001, with a five dollar (\$5.00) ten dollar (\$10.00) prescription plan benefit upon execution of this Agreement.

Specified plan modifications shall be implemented pursuant to Section 32.2 set out below. Premiums for the within coverages shall be paid by the City when the applications of such employees are accepted for coverage, subject to reimbursement set out in Section 32.3 and 32.4.

32.2 Effective December 1, 2001, the following plan modifications may be made by the City: Employees will be responsible to pay a ten dollar (\$10.00) per visit co-pay to doctors within the network. A twenty dollar (\$20.00) per visit co-pay to doctors outside the network if such out of network service is permissible in plan offered..

Employees shall be responsible to pay a fifty dollar (\$50.00) fee for non-life threatening emergency room visits.

80% of the reasonable and customary cost of services will be paid by the insurance carrier for services outside the network if such out of network service is permissible in the plan offered. The employee shall be responsible for the remaining charges.

A prescription plan shall be offered at a level of eight dollars (\$8.00) generic and fifteen dollars (\$15.00) designated brand name. A mail order plan may be available with a two (2) co-

pay ninety (90) day supply benefit.

32.3 Employees will be required to reimburse the City, through payroll deduction, the amount applicable to the program in which they participate, that being either \$10.50 per pay period if the employee holds single coverage, or \$21.00 per pay period for family coverage.

32.4 The reimbursement above-referenced in Section 32.3 and 32.4 will also apply to those employees who elect to participate in the federally-qualified Health Maintenance Organization (HMO), if offered by the City.

32.5 Payments shall be made through payroll deductions prior to the date due by the carrier. Failure to pay such additional premiums, if any, shall result in the loss of insurance benefits to the employee.

32.6 In the event an employee is eligible to be covered under the same policy of another employee of the City, each employee will be offered either a single plan or offered one family plan for both employees. Cost shall be governed based on selection of a single plan for each employee and to the employee named as the policy holder for a family plan.

32.7 The Employer will provide life insurance coverage in the amount equal to one year base pay of the employee.