

STATE EMPLOYMENT  
RELATIONS BOARD  
MAY 2 10 28 AM '00

IN THE MATTER OF FACT-FINDING PROCEEDING

BETWEEN

CITY OF EAST LIVERPOOL ( Case No: 99-MED-10-1000  
)  
and ( )  
( )  
( )  
( )  
( Hearing Date: March 24, 2000  
)  
AFSCME, Ohio Council 8 ( )  
Local 677 ( )  
( Findings and Recommendations:  
) May 1, 2000  
( )  
( )

Representing the City:

Sandy Conley  
Account Manager

Representing the Union:

Jaladah Aslam  
Staff Representative

William J. Miller, Jr.  
Fact Finder

## **SUBMISSION**

This matter concerns fact-finding proceedings between the City of East Liverpool (hereafter referred to as the "Employer") and AFSCME Ohio Council 8, Local 677 (hereafter referred to as the "Union"). The State Employment Relations Board (SERB) duly appointed William J. Miller, Jr. as Fact Finder in this matter. The parties agreed to extend the submission of this report until May 1, 2000.

The Fact Finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law, and the rules and regulations of the State Employment Relations Board, as amended. Consideration was given to criteria listed in Rule 4117-9-05 (J) of the State Employment Relations Board. The Employer and the Union previously engaged in the collective bargaining process for an extensive period of time before the appointment of a Fact Finder. This Fact Finder had several discussions with the parties prior to March 24, 2000 and on March 24, 2000 attempted to mediate the unresolved issues. Mediation was unsuccessful, and the following issues were considered at the Fact Finding Hearing on March 24, 2000:

1. Accumulated Sick Leave
2. Seniority and Layoffs
3. Licenses / Certifications
4. Hospitalization/Health Care & AFSCME Health & Welfare
5. Wages
6. Signing Bonus
7. Duration

### **1. ACCUMULATED SICK LEAVE**

It is the Union position that all employees regardless of their date of hire should be eligible to cash in forty (40%) percent of any accumulated sick leave up to seventy five (75) days maximum.

The Employer considered this issue and indicated the present language related to accumulated sick leave is satisfactory and should remain as stated in the prior agreement.

## **FINDINGS AND RECOMMENDATIONS**

After carefully considering the positions of the parties in conjunction with the applicable Agreement language, the following language is proposed for Article 20 of the Agreement:

Section 1. Employees currently employed by the City in the bargaining unit shall be entitled to accumulate not more than seventy-five (75) days of sick leave. Upon any employee having accumulated sixty (60) days of sick leave, he shall be paid on the last regular pay day of December of the calendar year for each hour of unused sick leave in excess of four hundred eighty (480) hours of unused sick leave, at the rate of his regular hourly wage for each hour of unused sick leave.

Section 2. Each employee whose date of employment is after October 16, 1984, shall accumulate sick leave days and be paid for sick leave days in the same manner as provided in Section 1, provided that all employees hired after October 16, 1984, shall be paid forty percent (40%) of the sick days accumulated at the date of retirement.

Section 3. At the discretion of the Board of Public Utilities or the Director of Public Service-Safety, the City may require that any absence due to illness of three (3) days or longer shall be substantiated with a physician's certificate. The Board of Public Utilities or the Director of Public Service-Safety may also require a physician's certificate to substantiate a one (1) day absence due to illness occurring repeatedly on a Monday or Friday. Before requiring the employee to produce said physician's certificate for a one (1) day absence, the City shall notify the employee's Union representative. This requirement shall not be unreasonably applied.

Section 4. This provision shall not be construed to affect the existing accumulated sick leave of any employee in excess of said four hundred eighty (480) hours accumulated prior to April 1, 1980. In accordance with the same, the City shall pay said employee at the end of the calendar year pursuant to the above-stated provision.

Section 5. Upon retirement, or termination by death, the employee or his representative shall receive payment for the unpaid accumulated sick leave existing at the time of said retirement or death, to a maximum of seventy-five (75) days, if said employee has accrued sixty (60) days accumulated sick leave on the first day of January in the year in which he retires.

## **2. SENIORITY AND LAYOFFS**

With regard to seniority, the Union proposes to add language which would clarify seniority as bargaining unit seniority and that bidding out of the bargaining unit into an exempt position would constitute a loss of bargaining unit seniority. With respect to layoffs, the Union proposes that bargaining unit members cannot be bumped by non-bargaining unit / exempt employees.

The Employer agrees that bargaining unit employees are given first consideration for job vacancies within the bargaining unit. However, the Employer believes that in the event of a layoff, non-bargaining unit employees should continue to be able to exercise their city-wide seniority for purposes of bumping non-bargaining or bargaining unit employees as may be applicable.

## **FINDINGS AND RECOMMENDATIONS**

With regard to seniority, it is proposed that Article 10 of the Agreement read as follows:

### **ARTICLE 10** **SENIORITY**

Section 1. Bargaining unit seniority shall be an employee's uninterrupted length of continuous service with the City, department, unit, or job classification, depending on the question involved. An employee shall have no seniority for the probationary period, but completion of the probationary period shall result in seniority commencing retroactively to the date of hire.

Section 2. If an employee is discharged or quits at any time and is later rehired, he shall be considered a new employee.

Section 3. There shall be two (2) types of seniority with the bargaining unit:

- A. "City-wide seniority", which seniority is the total cumulative service with the City; and
- B. "Department seniority", which seniority is the total length of service an employee has been employed in the department. For the purpose of vacations, holidays, paid sick leave, promotions, job bidding, and layoffs (bumping), seniority shall apply as provided herein, subject to the provisions of this agreement, and except under extreme emergencies.

Section 4. An employee may accumulate seniority in only one (1) department at a time. When an employee promotes from one (1) classification to another classification, he shall be placed at the bottom of the seniority list in that classification to which he has been transferred.

Section 5. Seniority shall be broken (or terminated) when an employee (a) quits or resigns; (b) is discharged for just cause, or (c) is laid off for a period of time equal to the amount of City-wide seniority the employee had on the date of his layoff.

Section 6. "Department seniority" shall generally mean seniority in a classification within a "department" and shall be used for preference of vacation periods, days off, shift assignments, filling vacancies within a "department", work assignments, and temporary promotions, subject to the provisions of this agreement. The term "department seniority" shall specifically be defined as the continuous length of service in a classification within a "department" as determined from the date of an appointment to a specific classification. The term "department" shall specifically be defined as Service Department, Incinerator Department, Street Department, Sewer Revenue Department, Health Department, and Parking Meter Repair Department.

Section 7. Temporary promotions shall be made from among the employees in the next lower pay range provided, however, the employee must have the ability to perform the duties entailed in such assignment.

Section 8. In the even two (2) or more employees have the same "department seniority", then in such event, the total "City-wide seniority" shall prevail

Section 9. For the purposes of transfers outside the department, the employees selected shall be the employee(s) who has the longest seniority if the assignment is voluntary, or the employees with the shortest seniority if the assignment is involuntary.

Section 10. If an employees transfer or bids out of the bargaining unit, he will lose his seniority in the bargaining unit.

With regards to layoffs, it is proposed that Article 17 read as follows:

**ARTICLE 17**  
**LAYOFFS**

Section 1. When the City determines that a reduction in the work force is necessary due to lack of funds or lack of work, employees shall be laid off in the following order within a classification:

- A. Part-time, temporary intermittent, and seasonal employees;
- B. Full-time employees who have not completed their probationary period;
- C. Full-time employees who have completed their probationary period.

Section 2. Employees shall be laid off in accordance with the above order on the basis of "City-wide" seniority within their department. A bargaining unit employee who is laid off shall be able to bump another employee with less seniority in an equal or lower-rated classification within the same department.

Section 3. In the event an employee is unable to "bump" a lesser seniority employee in an equal or lower-rated classification in the same department, the employee shall be able to exercise his seniority to bump the least senior employee in an equal or lower-rated classification in another department provided the employee is presently qualified to perform the essential functions of such classification / position without further training. Employees who bump into another position shall be given a two (2) week trial period to determine if they can perform the essential functions of the position.

### **3. LICENSES AND CERTIFICATIONS**

The Union proposes increase of 3% in all license stipends for January 1, 2000 and 3% increase for January 1, 2002. Also the Union requests to add the lab tech and meter back-flow certification to contract:

The Employer is proposing a 3% increase to the operator stipends in calendar years 2001 and 2003. The City looked at both average wages and stipends and is higher than average when the two rates are combined.

### **FINDINGS AND RECOMMENDATIONS**

After reviewing the positions of the parties, it is recommended that Article 54 of the Agreement state the following:

#### **ARTICLE 54**

#### **LICENSES/CERTIFICATIONS**

##### **Section 1.**

- D. Water Distribution and Wastewater Distribution employees (Water Plant Operators, Water Distribution Operators, and Wastewater Collection) shall be entitled to a monthly stipend, provided said employees obtain and maintain, at their expense, a state license for the operation of said facilities as follows:

	<u>Monthly</u>	<u>Annual</u>
Class I	\$ 57.88	\$ 694.56
Class II	\$ 86.82	\$1041.84
Class III	\$115.76	\$1389.12

The above rates shall be increased in 2001 and 2002 (with the first full pay period of January) as follows:

	<u>2001</u> <u>Monthly (Annual)</u>	<u>2002</u> <u>Annual (Annual)</u>
Class I	\$ 59.62 (\$715.44)	\$ 61.40 (\$ 736.80)
Class II	\$ 89.42 (\$1073.04)	\$ 92.10 (\$1105.20)
Class III	\$119.23 (\$1430.76)	\$122.81 (\$1473.72)

E. Notwithstanding the provisions above, an employee will receive a day off with pay as necessary to take the applicable examination; all expenses for meals, travel, lodging, and examination fees shall be borne by the employee. Employees who successfully complete and pass their respective examinations shall be reimbursed the exam fees by the City.

B. Criteria for eligibility for such stipends are as follows:

1. The employee must work in the classification corresponding with the licensure.
2. If an employee makes a classification or career change, he will have eighteen (18) months to duplicate a Class I license or certification and thirty (30) months for a Class II, or forfeit the additional stipend.
3. Upon duplication, the employee will only be paid for his current highest license in the classification he is presently working and cannot compound license incentives or collect for licenses in more than one (1) classification.

Section 2. An employee functioning as a "Lab Technician" who holds and maintains an EPA chemical certification shall be entitled to a monthly stipend, provided the employee maintains and utilizes such certification in his job performance. Such stipend shall be seventy-three dollars and sixty-eight cents (\$73.68), (eight hundred eighty-four dollars and sixteen cents (\$884.16) per year).

Section 3. An employee holding the position of Meter Inspector or Meter Repairer, who obtains and maintains Back Flow Prevention Certification, shall be entitled to a stipend of thirty-five dollars (\$35.00) per month (four hundred twenty dollars (\$420.00) per year).

#### **4. HOSPITALIZATION / HEALTH CARE & AFSCME HEALTH & WELFARE**

The Union proposes that the employee co-pay on premiums be maintained at the current rate of \$24.00 per month per employee. It is also the position of the Union that coverage which employees have through the AFSCME Care Plan be maintained and the City be required to pay the increase of \$6.00 per employee per month.

Regarding these issues, the Employer position is as follows:

#### **ARTICLE 30**

The Employer is seeking language to indicate that the City will make available basic hospitalization and major medical coverage and that the City retains the right to determine the carriers/providers. The City is also seeking to establish the same base Employer contribution and excess cost sharing as it has established with all other bargaining units. Specifically:

Single	\$260.00/employee/month
Family	\$625.00/employee/month

The first \$100.00 per month in excess of the costs set forth above are the responsibility of the participating employee.

Any costs in excess of \$360 / month or \$725 / month are then to be split equally.

#### **ARTICLE 31** **AFSCME HEALTH AND WELFARE**

The bargaining unit has opted for supplemental coverage for vision, prescription, life insurance, hearing aids, and dental under the AFSCME Health and Welfare Plan, rather than supplemental coverage through the City plan. The monthly cost for such supplemental coverage must therefore be deducted from the base maximums in order to maintain uniform contribution to all City employees. The City believes uniformity in this area is imperative as any changes to the health plan are first discussed with the union; providing a greater economic benefit to one union or group creates problems and discord when it becomes necessary to

determine whether employees want to absorb/share additional costs or modify benefit levels.

The City would have no objection to increasing the contribution to the AFSCME Health and Welfare Plan provided the total per employee cost per month for the

City basics health plan and any supplemental coverage not exceed \$260/\$625 per month. Absent agreement in this area, the City proposes to maintain the AFSCME Health and Welfare contribution at \$44.25 per month.

## **FINDINGS AND RECOMMENDATIONS**

It is recommended that Article 30 and Article 31 of the Agreement read as follows:

### **ARTICLE 30** **HOSPITALIZATION/ HEALTH CARE**

Section 1. The Employer will continue to make available to full-time bargaining unit employees basic surgical, hospitalization, and major medical coverage. The Employer reserves the right to select carriers/providers and/or to otherwise determine the manner by which any and all coverage is to be provided.

Cost containment programs which seriously reduce benefit levels, and for which a benefit level is not improved in any other area, unless such reduction is necessitated by reasons of market availability (unavailability), shall require the mutual agreement of the Employer and the Union.

Section 2. An employee may elect single of family coverage consistent with any eligibility requirements set forth under the terms and conditions of the plan.

Section 3.

A. The Employer shall contribute up to maximum base amount, per employee, per month towards the total cost of coverage as follows:

Effective Date	Type of Coverage	Maximum Base Monthly Employer Contribution
5/1/00	Single	\$254.00
	Family	\$580.00

- B. Employees electing family coverage shall continue to pay \$24.12 per month for the duration of this Agreement plus any excess costs as set forth in Section D herein.
- C. For the duration of this Agreement, The City shall pick up the next nineteen dollars (\$19.00) per month, as applicable above the combined costs of Sections A and B above.
- D. Should the cost exceed the maximum amounts set forth in subsection (A), (B) and (C) above, the participating employee shall be required to contribute one hundred percent (100%) of the amount in excess of such maximum, for the next one hundred dollars (\$100.00) of excess cost, in order to continue participation.

Should the cost of coverage exceed the amounts set forth in subsections "A", "B", "C", and "D" herein, any such costs shall be split equally between the Employer and the participating employee.

Section 4. Within six (6) months of the execution of this Agreement, the City will convene a Health and Medical Insurance Committee comprised of one representative from each of the City bargaining units and one management representative. The purpose of this Committee shall be to immediately review the cost utilization and benefit levels of the existing health insurance program and to make recommendations to the City administration relative to cost containment provisions. The Committee should then review other alternative insurance plans for the purpose of finding plans which are more cost effective than the existing plan. The City and Union agree to cooperate to the fullest extent for the purpose of making plan changes where appropriate for the purpose of reducing the City's health care costs. Cost containment measures recommended by the committee and adopted by the City shall not require the mutual agreement set forth in Section (1) herein.

### **ARTICLE 31** **AFSCME HEALTH AND WELFARE PLAN**

The City shall pay at a rate of fifty dollars and twenty-five cents (\$50.25) per employee per month to the Ohio AFSCME Care Plan for the following health care benefits:

- A. Vision Care;
- B. Drug Purchases
- C. Life Insurance
- D. Hearing Aid
- E. Dental Care – Level 2

## **5. WAGES**

The Unions proposal regarding wages is to provide a 3% increase January 1, 2000; 3% increase January 1, 2001; and 3% increase January 1, 2002.

It is the position of the City regarding wage increases that wages be increased as follows during January of each contract year:

2000	2.5% (retroactive)
2001	2.5%
2002	3%
2003	3%

In consideration of all of the economic issues still outstanding, the economic settlements reached with other City bargaining units, and comparable data, it is the position of the City that an 8% increase over 3 years and 11% over 4 years is reasonable.

## **FINDINGS AND RECOMMENDATIONS**

After carefully considering the positions of the parties, it is recommended that wages be increased as follows during the term of the Agreement:

January 1, 2000	3%
January 1, 2001	3%
January 1, 2002	3%
January 1, 2003	3%

## **6. SIGNING BONUS**

It is the position of the Union that bargaining unit employees be provided with a signing bonus in the amount of \$200.00 during each year of this Agreement.

The City contends in its submission to the fact finder, the Union is also proposing a signing bonus of \$200 each year of the Agreement. A signing bonus of \$200 in April 2000 and \$200.00 in April was part of an overall, one-time package to settle and reach tentative agreement. The Union rejected the tentative agreement.

## **FINDINGS AND RECOMMENDATIONS**

Upon carefully reviewing the positions of the parties during their negotiations, it becomes evident that there was consideration given during negotiations to the possibility of providing a signing bonus for employees in the bargaining unit. However, the record of negotiations has established that the determination of the City to consider a signing bonus was predicated upon all other issues being resolved. During the fact-finding, it became readily apparent that the Union and its members were very interested in receiving consideration for payment of their health care costs. As indicated during the earlier part of this fact finding report, certain benefits were provided to the bargaining unit. This being the case, it is my considered opinion that the bargaining unit members have in fact received additional benefits that they have requested regarding their health care. Consequently it is my considered opinion that it would not be appropriate to include a signing bonus for member of the bargaining unit.

### **7. DURATION**

It was the position of the Union that the duration of the contract be from January 1, 2000 through December 31, 2002.

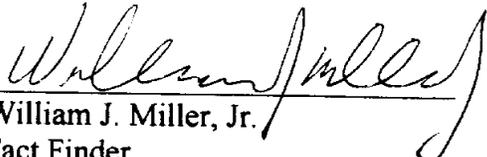
The City is proposing an effective date of April 23, 2000 (recognizing both parties will be proposing retroactivity for wages) and an expiration date of April 22, 2003. This proposal accommodates a 3-year agreement and moves the expiration date away from the holidays and year-end activities.

## **FINDINGS AND RECOMMENDATIONS**

After reviewing the positions of the parties and considering the wage increases that have been proposed, it is recommended that this Agreement shall be effective from May 1, 2000, through April 30, 2003. Negotiations will be in compliance with all rules and regulations of Ohio Revised Code Section 4117.

**CONCLUSION**

In conclusion, this fact-finder submits his findings and recommendations as set forth herein.

  
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William J. Miller, Jr.  
Fact Finder

May 1, 2000