

MICHIGAN DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

**MUSKEGON COUNTY
ROAD COMMISSION,**

EMPLOYER,

-&-

**TEAMSTERS STATE, COUNTY & MUNICIPAL
WORKERS LOCAL #214,**

UNION.

CASE No. #L03 D-9012

FACT FINDER: SCOTT HILL-KENNEDY

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**FACT FINDER'S
RECOMMENDATION**

The Collective Bargaining Agreement between the Teamsters State, County & Municipal Workers Local #214 ("the Union"), and the Muskegon County Road Commission ("the Employer") expired June 30, 2003. The Union filed a Petition for Fact Finding, which was received by the Michigan Employment Relations Commission on October 6, 2003. The Commission received the Employer's Answer to the Petition for Fact Finding on October 20, 2003.

On December 5, 2003, the Michigan Employment Relations Commission, pursuant to Public Act 176 of 1939, appointed the undersigned to act as the Fact Finder in these proceedings. The parties continued to bargain and reached a tentative agreement on February 3, 2004. Members of the Union voted against ratification on

February 17, 2004. The parties modified the February 3 tentative agreement, and the Members of the Union again voted against ratification on March 31, 2004. On April 16, 2004, the Fact Finder conducted a fact-finding hearing at the Muskegon County Road Commission, Muskegon, Michigan. At this hearing and in these proceedings, Michael Fayette, Esquire, represented the Union, and Michael R. Kluck, Esquire, represented the Employer.

During the hearing, each party offered into evidence a spiral notebook containing a comprehensive collection of detailed information, including documents such as proposals and comparable collective bargaining agreements. The Fact Finder received into evidence the Union's notebook, Union Exhibit #1. The Fact Finder received into evidence the Employer's notebook, Employer Exhibit #1. Union Exhibit 1 and Employer Exhibit 1 provide the basis for the Fact Finder's Recommendation. Pursuant to stipulation of the parties, the Fact Finder will not set out a detailed itemization of each Exhibit.

The parties stipulated to a streamlined approach to the process for and setting out of the Fact Finder's Recommendations. The parties have waived the requirement calling for the Fact Finder to submit the reasons and bases for the findings, conclusions, and recommendations. Therefore, The Fact Finder shall not submit detailed reasoning for each recommendation. Likewise, to the extent that the Fact Finder found that the evidence warranted a recommendation of continuing the language of the expired contract, the Fact Finder will simply indicate as much. Finally, the parties agreed that each party could supplement the record through written argument, if so desired, by submitting written briefs on or before May 3, 2004. Neither party submitted written briefs.

The Fact Finder's Recommendations on the open issues are set out below.

ISSUE 1
ARTICLE 14. SENIORITY

The Union proposed contract language providing that the Employer assign vacant snow runs by seniority.

The Employer proposed that the current contract language be retained (no change to the seniority provision, Article 14).

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of the current contract language.

ISSUE 2
ARTICLE 28. FUNERAL LEAVE

Current contract language provides that Employees may take up to three days (24 hours) of paid funeral leave with the days chargeable to paid sick leave or non-chargeable to paid leave (other than sick leave or other forms of compensated leave). Paid leave to attend a funeral for a grandparent or a grandchild is currently chargeable to paid sick leave, if available.

The Union proposed contract language that placed paid leave to attend the funeral of a grandparent or a grandchild in the non-chargeable category.

The Employer proposed that the current contract language be retained.

Recommendation: The Fact Finder finds the Union's position persuasive and recommends the adoption of language that modifies Article 28, Section 1(a) to provide that paid leave to attend the funeral of an employee's grandchild or grandparent be non-chargeable (not chargeable to sick leave) and that this language change be effective for funerals that occur after the successor collective bargaining agreement is adopted.

ISSUE 3
ARTICLE 34. INSURANCE

Section 2, *Flexible Spending Accounts*, currently provides that the employer will contribute the following amounts to the Employee's Flexible Spending Account:

Effective 07/01/02	
Single	\$1,260.00
Two-Person	\$1,415.00
Family	\$1,774.00

Section 1, *Benefit Dollar Allocation*, currently provides that the Employer will allocate the following amounts for the benefit of an Employee:

<u>Status</u>	<u>Benefit Dollar Allocation Amount</u>
Single	\$2,140.00
Two-Person	\$4,180.00
Family	\$4,590.00

The parties' table positions in the first year proposed similar increases to Employer contributions to the Employee's Flexible Spending Account. The parties appear generally supportive of the position that any increased amount to be contributed to the Flexible Spending Accounts may instead be split between the Flexible Spending Account and the Benefit Allocation Account. The parties also appear generally supportive of accepting the Employees' preferences regarding the percentage allocated between each account.

Recommendation:

Effective July 1, 2003, the Fact Finder recommends the adoption of language that provides that the Employer contributes/allocates an additional \$1,000, 70% or

\$700.00 of which will be allocated to the Benefit Allocation Account and 30% or \$300.00 of which will be contributed to the Flexible Spending Account.

Effective July 1, 2004, the Fact Finder recommends the adoption of language that provides that the Employer allocate an additional \$300 to the Employee's Benefit Allocation Account.

Effective July 1, 2005, the Fact Finder recommends the adoption of language that provides that the Employer contribute an additional \$300 to the Employee's Flexible Spending Account.

ISSUE 4

ARTICLE 35. LONGEVITY

Article 35 provides that longevity payments are based on years of continuous, full-time service to the Muskegon County Road Commission as of December 1 of each year.

The Union proposed that longevity be prorated for any portion of a period that is less than 12 months, the proration covering the period between the previous December and the Employee's date of retirement.

The Employer proposed either proration in conjunction with prospective elimination of longevity payments or the retention of current contract language.

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of the current contract language.

ISSUE 5

ARTICLE 36. SAFETY REGULATIONS

The Union proposed contract language that modifies Article 36 to provide for an Employee's suspension of work to confer with a steward or a member of the Safety

Committee and a suspension of timelines for filing a grievance up to the time the Safety Committee issues its formal recommendation.

The Employer proposed that the current contract language be retained.

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of the current contract language.

ISSUE 6

ARTICLE 39. PERSONAL LEAVE DAYS

Article 39 provides that up to 24 hours of sick leave may be used for personal leave.

The Union proposed that Article 39 provide that up to 36 hours of sick leave may be used for personal leave.

The Employer proposed that the current contract language be retained.

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of the current contract language.

ISSUE 7

ARTICLE 40. DISCIPLINE

The Union proposed that a new section be added, which would limit the amount of time the Employer has after an offense to impose discipline.

The Employer proposed that the current contract language be retained.

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of the current contract language.

ISSUE 8

APPENDIX A. WORK RULES

Appendix "A" contains a set of comprehensive Work Rules the violation of which constitutes either a Major Offense or a Minor Offense, with corresponding penalties.

The Union proposed modification of the rule regarding work performed while on sick leave, reduction of the first offense penalty for disregard of Common Safety Practices, and reduction of the time a reprimand may be used for disciplinary reasons from 36 months to 24 months.

The Employer proposed that the current contract language be retained.

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of current contract language.

ISSUE 9

APPENDIX B. WAGE SCHEDULE

The Union proposed wage increases that cumulatively totaled 5% over a three-year period (July 1, 2003-June 30, 2006).

The Employer proposed wage increases that cumulatively totaled 4% over a three-year period (July 1, 2003-June 30, 2006), with no retroactivity.

Recommendation: The Fact Finder finds that the record supports the following wage increases, effective on the dates indicated:

<u>JULY 1, 2003</u>	<u>JULY 1, 2004</u>	<u>JULY 1, 2005</u>
½% applied to base compensation only. Payment will be made available only for employees on the active payroll at time of ratification of the new agreement.	2.25% across the board	2.25% across the board

ISSUE 10
APPENDIX C. SUBSTANCE ABUSE POLICY

The Union proposed that the current contract language be retained.

The Employer proposed deletion of the last sentence of the first paragraph of Appendix C, Section IV - *Self-Referral for Treatment*, and replacing it with "Self referral must take place prior to selection for testing in order to be eligible for any exemption."

Recommendation: The Fact Finder finds that the record supports no change to the contract and therefore recommends adoption of current contract language.

ISSUE 11
MECHANICS UNIFORMS [No Current Language]

The Union proposed language providing that mechanics receive additional compensation in the form of an annual cleaning allowance for their clothing.

The Employer proposed that the current contract language be retained (no new section be added).

Recommendation: The Fact Finder finds that the record supports and recommends that Equipment Repairmen receive a \$100 annual cleaning allowance paid each year during the month of January. (The Fact Finder notes that Appendix B Wage

Schedule provides, in Subsection C, for a \$400 tool allowance to be paid annually to Mechanics.) Equipment Repairmen who are hired between the date of payment and the next January payment date will receive a prorated cleaning allowance.

TENTATIVE AGREEMENTS

The parties informed the Fact Finder that the parties had previously reached tentative agreement on several articles and/or sections of the Contract.

Recommendation: The Fact Finder recommends that the tentative agreements reached on several articles and/or sections be included in any final agreement between the parties.

The Fact Finder thanks the parties for this opportunity to assist them in the bargaining process, and hopes that the recommendations set out in this document are useful in promoting your efforts toward the successful completion of negotiations for a successor collective bargaining agreement.

FACT FINDER:

Dated: 5/18/09

By: Scott Hill-Kennedy
Scott Hill-Kennedy