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STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

IN RE FACT FINDING BETWEEN:

COUNTY OF MONROE

-and-

Case No. D 71 F-1870

TEAMSTERS, STATE, COUNTY AND
MUNICIPAL WORKERS, LOCAL 214

George T. Roumell /

FACT FINDER'S
REPORT AND RECOMMENDATIONS

APPEARANCES:

For the County of Monroe and its Judiciary:

David P. Wood, Esq.
Attorney at Law

For Teamsters Local 214:

Joseph Valenti
President

Monroe, County of

We all recall the title of William Shakespeare's play, "All's well that ends well". We hope that this Fact Finding Report and its Recommendations can result in a collective bargaining agreement or agreements so as to bring an end to the twenty month odyssey that the County of Monroe, its Judiciary, and Teamsters Local 214 have been on.

In March, 1970, the Michigan Employment Relations Commission, following an election, certified a collective bargaining unit in Monroe County as "all County employees excluding police officers, supervisors, professional employees, judges, state welfare employees, road commission employees and

library employees". This meant that approximately 125 Monroe County employees were represented by Local 214 in the bargaining unit. Beginning in May, 1970 and to the present date, the parties have engaged in collective bargaining, but have not yet arrived at an agreement. We think that twenty months is too long to be negotiating a contract. Reasonable men ought to be able to work out reasonable solutions. We think that the County Commissioners and the Judiciary of Monroe County and Local 214 are reasonable men and there is a solution to the problems raised. That solution is to arrive at collective bargaining agreements.

We appreciate that the Board of Commissioners believed they had arrived at a contract in July, 1971. At that time the Commissioners made an offer of a three year contract which provided for wage increases of six percent the first year, eight percent beginning January 1, 1972 and five percent beginning January 1, 1973. The significant point, however, of this offer, was that the bargaining team of the union did not accept the offer but agreed to take it back to the membership without recommendation. The membership overwhelmingly rejected the offer. The Board should understand that this is not unusual. Frequently, union memberships do reject last offers of employers. This particularly follows here as the bargaining committee did not agree to recommend the offer.

Nevertheless, the Board unilaterally implemented the six percent raise for the calendar year 1971 and has announced via its budget for 1972 and through the news media that it intends to implement an eight percent increase in 1972. However, the Board must recognize that the union membership has rejected this offer and that it does have the duty to bargain collectively.

As this report has already assumed, a basic issue between the parties is wages and economic fringe benefits. The basis for

the union's position and the offer rejection in the summer of 1971 is the union's insistence on wage comparisons with employees employed by other public employers particularly in the surrounding area.

At the Fact Finding hearing, Local 214 introduced a very interesting document apparently prepared by the Commissioners of Oakland County comparing the wages of various classifications among a number of nationwide public employers along with several Michigan Public Employers. The Commissioners challenged this document on the grounds that it was not a true comparison. There is no question that the employees in Monroe County when compared with Santa Clair County of California, the State of California, and Hennepin County, Minnesota, fair poorly. It was not clear exactly with whom the Commissioners were suggesting that the comparisons be made, but there is merit in their argument that Monroe County Michigan should not be compared with large urban public employers throughout the Nation.

The next attack of the union was to make comparisons with Wayne County, Michigan. The argument is that since Wayne County is an adjoining county to Monroe County, there is absolutely no reason why Monroe County employees should not be paid comparably. There is no question that Wayne County pays, in all classifications, substantially higher wages than similar classified employees in Monroe County.

But there is a problem, as the attorney for the County pointed out, between such comparisons. It must be recognized that Wayne County is the most populus county in the State of Michigan. It must be further recognized that the wage scale in Wayne County is the highest in the State caused by many factors peculiar to urban life plus the influence of high paying private employers. We would agree with Monroe County that Wayne County

would not be a proper comparison because it is recognized that the out-state county employees in Michigan normally receive less pay than Wayne County employees, although this could gradually change.

So far, we have suggested that we have agreed with the County's viewpoint on comparisons with such counties as Wayne County or other large counties in the Nation. But the problem here is that Monroe County has given us no guidelines or any comparisons to substantiate their position that the six percent, eight percent, and five percent offer was a fair offer. In fact, the county's 1971 budget specifically refers to the six percent offer as being "a six percent cost of living increase". That is all it was because in 1971 the cost of living did arise approximately six percent. The question that the Commissioners still must answer is whether Monroe County employees are getting paid at a rate of pay that is comparable with other similarly situated government employees.

Comparisons are a valid criteria and should be used by Fact Finders unless there are unusual circumstances such as a serious inability to pay.

As already indicated, the employees believed that even an eight percent offer for the 1972 calendar year is not a comparable figure. There is merit to the employee's position. Eliminating big counties, big cities and Wayne County, we still can find reasonable comparisons. What are these?

We suggest that fair comparisons would be with other government employees in Monroe County, to-wit, the City of Monroe, other government employees in a neighboring county that has economic factors similar in some respects to Monroe, namely, Washtenaw County, and to a City, although larger than Monroe, is still not Detroit, and is nearby, to-wit, the City of Ann Arbor.

Take a custodial worker. In 1971, in the City of Ann Arbor, a custodial worker (1) works 40 hours a week average. He gets minimum annual rate of $7,737 and a maximum rate of $8,796. In the City of Monroe, he starts at $5,131 annually and can, after 60 months get a maximum of $6,549. We recognize that in Monroe County, the maximum can be obtained in 24 months plus longevity pay. So even in the City of Monroe, if one goes on the 24 month basis, a custodial worker after 24 months would be making $5,657.

We are now comparing the City of Ann Arbor and the City of Monroe with Monroe County. The Monroe County minimum is $3,715.96 and a maximum of $4,335.40. The rate difference with the City of Ann Arbor is $4,021.04 to $4,660.60. With the City of Monroe, based on the 24 month spread, the difference is $1,415.04 to $1,321.60. It is quite clear that an eight percent increase as proposed by the County would not make the custodial worker in the County of Monroe very comparable with his counterpart in the same county in the City of Monroe or in the nearby City of Ann Arbor.

Let us take another classification, i.e. secretary. In Ann Arbor, rate varies from $7,250 to $8,039 annually. On the 24 month basis, in the City of Monroe, it is $6,876 to $7,581. In Monroe County the variance is $6,193.28 to a maximum of $6,812.62. This means that in Monroe County, a secretary would be receiving from $682.72 to $768.78 less than her counterpart in the City of Monroe and $1,056.72 to $1,226.38 less than in the nearby City of Ann Arbor. Again, an eight percent increase on the part of the County beginning January 1, 1972 and a further increase of 5% in 1973 will not close this gap because obviously, the City of Monroe and the City of Ann Arbor will also be giving increases in 1973. Eight percent obviously is not enough.

We now turn to one of the higher paid classifications, that of an Accountant III (Washtenaw County) which is pay grade rate 14 in Monroe County. We now compare the Monroe rate with the 1970 rate in Washtenaw County. The rate in Washtenaw is $8,227.00, minimim, to $11,025.00, maximum. In Monroe County, the rate is $7,153.24 to $7,741.60. The difference is $1,073 to $3,283 annually.

There are some exceptions to the above trend where Monroe County does pay comparable with surrounding public employers such as the City of Monroe the City of Ann Arbor, and Washtenaw County, but the general trend, as we have already noted is that the County of Monroe employees do not compare favorably with their counterparts in surrounding geographical governmental units. And the reader of this report should note that we have taken a sampling of a low classification, middle classification and a high classification.

The sample shows a consistent trend with some exceptions.

Furthermore, the County did not counter-act this evidence. The facts are here to be noted. They obviously are recognized by the County itself or are just being ignored.

We also listen very carefully to determine whether there was an issue of ability to pay. Obviously, regardless of what the comparisons show, if a governmental unit has an ability to pay problem, a Fact Finder must recognize that problem and not over-emphasize comparisons. Although we were given the 1971 and 1972 County budgets, we were not told that the County is in a distressed financial position. We do note that in 1972 the County shows expenses of $5,122,931 as against receipts of $5,122,931. This shows a so-called balance budget. It does not show any deficit or surplus financing. It does not show a lack of cash reserves. We also recognize that budgeting is not an exact science and there

is a possibility there can be more receipts which would exceed expenses or vice versa. Nevertheless, the County did not point out to us any distressed situation.

In addition, the County, by the lack of counter-evidence, and even when we accepted the county's argument about Wayne County and other large counties as proper comparisons, in effect admitted to the Fact Finder that County employees are being asked to subsidize county government by working for less than their counterparts in the very same county and in the neighboring rural-urban county of Washtenaw. In regard to the point of asking county employees to bear a disproportionate cost from other citizens of county government by being paid lower wages, see the very excellent opinion of the now executive director of the Michigan Employment Relations Commission, Hyman Parker, In Matter of City of Grand Rapids, S.L.M.B., Case No. G-63-K-515 (June 19, 1964) where he said in part:

> "It is the opinion of the hearing officer that the City, accordingly has the responsibility and obligation to implement such wage increases; and that such responsibility to its employees is of equal importance to the city's responsibility to provide municipal service and capital improvement.... The employee should not be required to bear a disproportionate burden of the City's present inability to secure additional sources of revenue."

Thus, this Fact Finder believes that the recommendations as to wages should be higher than that offered by the County. But before he makes recommendations as to wages, there are several other matters upon which recommendations must be made.

The duration of the contract is always a problem in a situation like this. We think that a twenty month odyssey through the maze of labor negotiations coupled with an unfair labor practice charge filed by the union only serves to unsettle labor relations. The goal of all collective bargaining should be to have stable labor relations. Stable labor relations have very tangible benefits

to any employer including a public employer like the County of Monroe. The only way that there can be stable labor relations in Monroe is for the adoption of collective bargaining agreements of more than one year duration. In fact, the county has recognized this by its three year offer. For this reason, the Fact Finder will recommend a two year contract effective January 1, 1972 and expiring December 31, 1973.

There are apparently three non-economic issues still in dispute. They are agency shop, union check-off and apparently a question on management rights. In regard to the question of management rights, this was not discussed at the Fact Finding hearing. For this reason, the Fact Finder will not make any recommendations as to the management rights language in the agreements except to state that there should be a management rights clause in the agreements. He reserves jurisdiction on this point. If the parties cannot agree to a management rights clause, they are to submit in writing their respective proposed clauses and the Fact Finder will recommend one.

As to the question of agency shop and union check off, we believe that these items are so elementary that they should not prevent the adoption of agreements. It is true that there are some inherent cost, accounting wise, to checking off union dues. But generally the checking off of union dues is not an economic item to an employer. On the other hand, it does serve to stablize labor relations. This is particularly so, when for whatever reasons, there has been a twenty month delay in signing a labor contract. For this reason, we are recommending that there be a union check off and are recommending the use of the language set forth in Appendix A attached hereto and made a part hereof which is the language adopted from an existing public employer contract in the State of Michigan.

We recognize that "agency shop" is still being litigated in Michigan Courts. Yet, many Fact Finders have recommended the adoption of "agency shop" language. We are recommending the adoption of "agency shop" language in the agreement which, however, would protect the County and Judiciary and hold the County and Judiciary harmless in the event the Supreme Court of Michigan declares "agency shop" language to be illegal. We believe that there can be no question that the Teamsters are a financially sound union and in the event that there is liability because of the illegality of such language, the Teamsters can very well afford to honor such liability. For these reasons and for the reason that there must be stablize labor relations in Monroe County, we are recommending that the "agency shop" language set forth in Appendix B attached hereto, and made a part hereof, be incorporated into the agreement.

This brings us to the question of fringe benefits. As we review the fringe benefits situation in Monroe County, we believe that there can be and should be some changes. However, this Fact Finder believes that because of the wage increases he is about to recommend and recognizing that this is a first contract and the parties will again have ample opportunity to bargain once the collective bargaining relationship has been established, he is only making one change in the present fringe benefits. This is in the area of sick leave. Beginning on January 1, 1972, the accumulation of sick leave ~~shall~~ be increased to 90 days. Beginning the second year of the contract - January 1, 1973, the amount of sick day accumulation shall be increased to 120 days.

There is one more difficult problem here, but actually it is most easily solved. This is the problem caused by the decisions of the Michigan Supreme Court filed September 30, 1971 and entitled The Judges of the 74th Judicial District of the State of Michigan

vs. County of Bay, Board of Commissioners of the County of Bay and Clerk of Bay County, et al and The Judges of the 3rd Judicial Circuit of the State of Michigan vs. County of Wayne and the Board of Supervisors of the County of Wayne, et al.

The Bay County case (74th Judicial District) stands for the proposition that the employer for employees working for the judiciary are the Courts and not the Commissioners. Therefore, the extension of that case to Monroe is that the Monore Judges have the opportunity if they so desire to insist on their own bargaining rather than having the Commissioners do the bargaining for them. This does not change the situation here. The attorney for the County appeared before the Fact Finder and gave every indication that he was also representing the Monroe Judiciary. The way the problem can be solved here is to apply this report and recommendations to collective bargaining contracts with the Judges. In other words, it would be highly unfair for all County employees to get the benefits of this report and recommendations and the Judges not to do the same for their own employees. The Judges have two options. Each court, i.e. Circuit Court, Probate Court and District Court can enter into separate contracts with Local 214 or the three Courts together can enter into one master agreement which would be separate from the County Agreements. In any event, the Judiciary contracts should carry the same language and same benefits as the County contract including the language and benefits recommended herein. It solves the problem and protects the judiciary employees who 20 months ago joined in voting for a union. It may be that some think that the judiciary employees did not vote for a union. But nobody knows who voted for what, for the ballot box was secret.

We again emphasize that it is in the interest of the Judiciary that this problem be solved. It can best be solved by entering into either three separate or one separate master

contract of the same duration, containing the same benefits and the same language as the county contract. The judges, though having the opportunity through their counsel, presented no evidence that would dictate a different result. Because of this recommendation, the use of the term collective bargaining agreements rather than agreement throughout this report has been deliberate.

There is one minor potential problem involving the judiciary employees and that is the question of who are judiciary employees? It would seem that as far as Circuit Court is concerned this would include the Friend of the Court employees and Probation employees and the Court's clerk staff. There may be a question as to whether or not some employees of the County Clerk are also Court employees. If the parties cannot agree on this, then the matter can be submitted to this Fact Finder for a recommendation. Therefore, the Fact Finder will also keep jurisdiction for this purpose. In the Probate Court it is quite clear that all clerk and secretarial help and probation help as well as employees of the Shelter Home are Probate Court employees. In the District Court it is quite clear that all the clerks assigned to that court and secretarial help are District Court employees.

Again, the parties ought to be able to work out who are court employees. If not, the Fact Finder is keeping jurisdiction to resolve any questions as to who or who is not a judicial employee.

Again, we come to the issue of wages. We have stated above that a six (6) percent which the county calls a cost of living increase, an eight (8) percent in 1972 and a five (5) percent increase in 1973 is not sufficient for reasons stated above. We believe that on a two year contract, that beginning January 1, 1972 all employees in grades 1 through 13 shall receive an eleven (11) percent increase and that employees in grades 14 and above

shall receive a thirteen (13) percent increase. Beginning January 1, 1973, all employees from grades 1 through 13 shall receive a six (6) percent increase and the employees in grades 14 and above shall receive a seven (7) percent increase. We believe that the evidence shows, and although we have disregarded Wayne County we cannot ignore the fact that it is recognized in Wayne County and elsewhere that employees of higher skills should get additional wage increases. This is the reason why we have made a differential between grades 14 and above and grades 13 and below. We did the same thing when acting as Fact Finder in the City of Flint. We believe it is only reasonable and it is consistent with the governmental trend. We also believe that there is no evidence showing that this would put a financial strain on the county. If it does, this evidence was not presented to the Fact Finder. On the other hand, raises in these percentages are necessary to make Monroe County employees competitive wage wise at least with other government employees in Monroe County and in nearby Washtenaw County.

By recommending a two year contract on this wage scale, it gives the union and its employees a chance to catch up over two years and at the same time it gives the county an opportunity to adjust its budget over a period of more than one year. A two year period is long enough to be classified as long range, but yet short enough to permit the parties to again review, in the relatively near future, their respective situations in view of changing economic patterns.

Finally, we recognize that there is a Phase II Economic Policy, and that these recommendations may exceed Phase II guidelines. But there are two answers to this. The recommendations are based upon a "catch-up" with other similarly goegraphically situated governmental employees. This recommendation does not suggest that Monroe County should "lead the pack". Under the circumstances, we

are confident that the Federal Pay Board will grant permission to give these wage increases. We also note that even if the County recognized that they had to pay more than the Federal guidelines at 5.5% because the County did offer eight (8) percent and in fact is unilaterally putting the eight (8) percent in effect. Finally, we note that recently other Michigan governmental units, faced with the problem of catching up with other comparable governmental units, have exceeded the guidelines. For example, most recently, the Alpena County Road Commission, agreed to a twelve (12) percent increase the first year of their contract, and a nine (9) percent increase the second year of the contract subject to approval of the Federal Pay Board.

We recognize that the recommendations here are subject to approval of the Federal Pay Board. But again we say, there is no reason why they should not be approved. Monroe County employees must be adequately compensated. We believe these recommendations do this. Again, we say "All's well that ends well". We hope this report and these recommendations have ended a twenty month odyssey and serves as a foundation for the creation of a stable, mature collective bargaining relationship which cannot help but reflect itself in service to the people of Monroe County.

GEORGE T. ROUMELL, JR.
Fact Finder

DATED: January 8, 1972

APPENDIX A

DEDUCTION OF DUES

SECTION 1. During the period of time covered by this Agreement, the Employer agrees to deduct from the pay of any employee all dues and/or initiation fees of Local No. 214 and pay such amount deducted to said Local No. 214, provided, however, that the Union presents to the Employer authorizations, signed by such employee, allowing such deductions and payments to the Local Union. This may be done through the Steward of the Union.

SECTION 2. Amount of initiation fee and dues will be certified to the Employer by the Secretary-Treasurer of the Union.

SECTION 3. Dues deducted shall commence on the first pay period of the month and will be deducted monthly thereafter on the first pay period of the month.

SECTION 4. Deduction of initiation fees will be made in two equal amounts from wages payable the following two pay periods from the effective date of the authorization.

SECTION 5. Dues deducted for any calendar month by the Employer will be remitted to the designated finance officer of the Local Union as soon as possible after the payroll deductions have been made. The employer shall furnish the Union finance officer with an up-to-date list of those employees who have signed check-off authorizations and whose dues have been deducted from their paychecks.

SECTION 6. Where an employee, who is on check-off, is not on the payroll during the week which deduction is to be made or who has no earnings, or insufficient earnings during the week or is on a leave of absence, double deductions will be made the following months.

APPENDIX B

SECTION 1a. Membership in the Union is not compulsory. Regular employees have the right to join, or not to join, the Union. Neither party shall exert any pressure on or discriminate against an employee as regard to such matters.

SECTION 1b. Membership in the Union is separate, apart and distinct from the assumption by one of his equal obligation to the extent that he received equal benefits. The Union is required under this Agreement to represent all of the employees in the bargaining unit fairly and equally without regard to whether or not an employee is a member of the Union. The terms of this Agreement have been made for all employees in the bargaining unit and not only for members in the Union, and this Agreement has been executed by the Employer after it has satisfied itself that the Union is the choice of a majority of the employees in the bargaining unit.

Accordingly, it is fair that each employee in the bargaining unit pay his own way and assume his fair share of the obligation along with the grant of equal benefit contained in this Agreement.

SECTION 1c. In accordance with the policy set forth under paragraphs (1a) and (1b) of this Section, all employees in the bargaining unit shall, as a condition of continued employment, pay to the Union, the employee's exclusive collective bargaining representative an amount of money equal to that paid by other employees in the bargaining unit who are members of the Union, which shall be limited to an amount of money equal to the Union's regular and usual initiation fees, and its regular and usual dues. For present regular employees, such payments shall commence thirty-one (31) days following the effective date or on the date of execution of

this Agreement, whichever is the later, and for new employees, the payment shall start thirty-one (31) days following the date of employment.

SECTION 1d. If any provision of the Article is invalid under Federal Law or the laws of the State of Michigan, such provision shall be modified to comply with the requirements of Federal or State Law or shall be renegotiated for the purpose of adequate replacement.

SECTION 1e. It is further agreed that the Union shall indemnify and save the employer harmless against and from any and all claims, demands, suits or other forms of liability that may arise out of or by reason of the provisions of the initiation fees, dues, collection or agency initiation fees and agency initiation dues as herein or hereafter provided.