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**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
FACT FINDING**

ORION TOWNSHIP

And

MERC Case No. DO1-0904

TEAMSTERS LOCAL 214

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**Report**

A. Robert Stevenson, Fact Finder

December 6, 2002

**FINDINGS, OPINION AND RECOMMENDATIONS**

The Fact Finding hearing on this matter was held on November 12, 2002 at the Orion Township Offices.

Present for Teamsters Local 214 were:

Les Barrett, Teamsters 214 Business Agent  
Roger Morris, Crew Leader  
Mitch McMurray, Laborer

Present for Orion Township were:

Dennis B. DuBay, Attorney  
Gerald Dywasuk, Township Supervisor  
Elizabeth Balch, Assistant to the Supervisor  
Ken Keibel, Registered Representative-Nationwide

My findings, opinion and recommendations follow.

## INTRODUCTION

On May 21, 2002, Teamster Union 214 filed a Petition for Fact Finding with the Michigan Employment Relations Commission listing some 21 unresolved issues in dispute with Orion Township. On September 25, 2002, the parties entered into a stipulation that three issues were to be presented to the Fact Finder. The three issues were wages, pension and retiree healthcare. Ability to pay was not an issue in this proceeding.

Orion Township and the surrounding communities are in a high growth area of Oakland County. The Township maintains some 400,000 feet of water main in its water system and some 500,000 feet of sanitary sewer pipe in the sewer system (Er.Ex.12).

The bargaining unit consists of seven employees, all of whom work for the DPW. In addition Township employees are either represented by Teamsters Local 214 in a "clerical" unit or are in a group of unrepresented employees. The clerical unit consists of 27 employees who work in a variety of departments. The non-union or unrepresented group consists of 16 employees, ten of whom are department heads or elected officials, five of whom work in the Township's Fire Department and one employee (the Supervisor's secretary) is excluded from the clerical unit as a confidential employee Er. Ex. 10).

The Union position is that the DPW is funded entirely from fees paid by the customers. They claim the system is growing and the current funds are far in excess of the revenue needed to fund this department as well as the proposed improvements in

wages and benefits made by the Union. The Townships position is the fact that the Township has accumulated taxpayer and /or customer dollars to maintain and improve the water and sewer system does not support the granting of excessive union demands.

The Union proposed the following comparable communities to Orion Township (U.Ex.G):

- Auburn Hills.
- Harrison Township
- Independence Township
- Lake Orion
- Macomb Township
- Pittsfield Township
- Waterford Township
- White Lake Township

Orion Township proposed the following comparable communities to Orion Township (Er. Ex. 6):

- Harrison Township
- Independence Township
- Macomb Township
- Pittsfield Township
- White Lake Township

Of these the Township and the Union have agreed that Independence Township, Macomb Township, Harrison Township, Pittsfield Township and White Lake Township are comparable. The parties are in disagreement with regard to the City of Auburn Hills, the Village of Lake Orion and Waterford Township as advocated by the Union, with the Township citing differences in form of government, population and taxes (Employers Brief p.9).

The parties have submitted the January 1, 1998 to December 31, 2001 bargaining unit contract. Each of those years saw wages raised 2%-2%-2%-2%. The Defined

Contribution Retirement Plan added an additional 1% for each of the 4 years. Retiree Health Benefits were at the employee expense (Er.Ex. 1, U.Ex1).

The bargaining position of the parties is as follows (U. Ex D):

Union Position

Employer Position

Wages

-2 ½%	2002 Retro
-2 ½%	2003
-2 ½%	2004
-3%	2005

-2%	2002 Retro
-2%	2003
-2%	2004
-2%	2005

Retiree Health Care

Union Position

Employer Position

Provide for retiree and family same coverage as employee.

VEBA (Voluntary Employee Benefit Account) - After five (5) years, One Hundred Dollars (\$100.00) per month. Employee can put excess sick time into VEBA each year.

Pensions

Union Position

Employer Position

Change to MERS defined benefit plan.

Maintain status quo (defined benefit plan).

The Township has two other groups of employees: members of the Teamsters Local 214 Clerical Unit, whose contract expires on December 31, 2002, and the Group of unrepresented employees, whose salary and benefits are set by the Township Board ( Township Brief p.11).

	<u>Unrepresented Group</u>	<u>Clerical Unit</u>	<u>DPW</u>
MERS	No	No	No
Defined Contribution Plan Township Contribution	10%	10%	14%
Retiree Health Benefit	None	None	None

## WAGES

In providing services the Township should pay at least market prices if ability to pay is not an issue. In the area of wages, the Union is proposing an increase percentage that is below those raises enjoyed by most all of the comparables. The Township position is that among their comparables the average hourly rate in 2001 was \$16.56 per hour compared to the \$18.14 per hour in Orion Township (Township Brief Appendix. B). The net salary (when pension deductions are made) is \$33,082 compared to Orion Township of \$37,731 (Township Brief Appendix C). White Lake Township (employer comparable) is \$34,521, Independence Township (employer and union comparable) is \$35,547 and Waterford Township (union comparable) is \$37,523. All of these are geographically close to Orion Township and presumably are in the same labor market area (Township Brief Appendix C). It should be noted that Waterford Township is a much larger Township with a population and tax revenue far in excess of Orion Township.

While comparables are helpful, consideration of the prior voluntary negotiations and settlements in the employer's bargaining unit can often provide guidance in formulating a recommendation. The past settlement in this bargaining unit was 2% in each of the four years of the contract. The parties seem to be very close in their proposals

with the Union asking for 2½ % in each year of the contract and the last year rising to 3%.

Since net wages are above the geographically close Township comparables, I would recommend the Township proposed settlement of a straight 2% in settlement of the contract. If inflation is a problem in the last year of the contract adjustment can be made through subsequent contract negotiations.

## **PENSION**

The Union's position is that the Township's defined contribution pension, which is costing 14% of payroll per year, be replaced with a MERS defined benefit pension program, which they claim would provide currently a significantly better benefit for a increase of an additional ½% per year (U. Ex J).

The Township's position is that they are opposed to the Unions proposal of MERS as a substitute for the Township's defined contribution plan. Their justifications are; they have a long history of a defined contribution plan; the plan includes all Township employees; the bargaining unit employees receive a 14% contribution as opposed to 10% for other Township employees; actuarial uncertainty and the trend is away from defined benefit plans (Township Brief p. 20,22). Also, defined contribution plans do exist in two of the comparables cited by both parties (Independence Township and Macomb Township) (Township Brief Appendix F). It should be noted that Independence Township is geographically next to Orion Township.

Changing a pension plan is a major change in a contract. Pensions are also complicated as to eligibility, benefit levels, actuarial assumptions etc. The Township's defined contribution plan appears to be advantageous to the Township's employees.

Generally the proponent of a change bears the burden of proof. In this case the competitive need for such a change has not been demonstrated and since it would impact other Township employees, I would not recommend the adoption of a MERS pension program at this time.

#### **RETIREE HEALTH CARE**

It is understandable that the current employees are interested in addressing health insurance cost for retirement. This is again a complex issue with questions concerning employee only coverage, spousal coverage, family coverage, eligibility requirements, type of coverage, co-payments, benefit levels, fixed amount toward premium, percentage of premium, carrier, uncertainty of actuarial assumptions etc. The Union admits that its proposal for family health care on retirement is expensive but claims it is in line with comparable community proposed by the Township (U. Ex. F). The Union proposes funding this cost from the interest on the reserves held for the sewer and water systems (U. Brief. P. 3).

The Township has proposed a voluntary employee benefit account (VEBA) under which, after 5 years of service, the Township would contribute \$1,200 each year in an account maintained for employee purchase of health insurance upon retirement (Township Brief p.23). Under the plan the employee has access to the funds upon separation from employment regardless of the employee's age. A declared minimum rate of return is established of approximately 5%. Currently it has averaged 6.4% over the past ten years (Township Brief p.24).

There would be no change with respect to the Township agreement to pay for 50% of the Medicare, Parts A and B, as found in the current collective bargaining

agreement. Further retirees could participate in the Township group coverage at their own expense (Township Brief p.23).

The Township admits that most of the comparables have some type of retiree health insurance program with varying coverage and exclusions with varying ages for eligibility (Township Brief Appendix G). However, it is the Township's position that the hourly wage and annual net salary are far above comparables and their 14% contribution to the retirement benefit plan compared to the 10% paid by Macomb Township and Independence Township offsets the retiree benefit those Townships provide (Township Brief Appendix F).

As a first step to address this cost and because of the trend away from defined benefits I find the Township proposal reasonable and should be favored over the family coverage retiree coverage proposed by the Union. The plan proposed by the employer can be the basis for future negotiations as to the amount of the Township's contribution. Regarding current employees in the bargaining unit it would be reasonable for the Union and the Township to negotiate contributions in recognition of past service.

December 6, 2002

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "A. Robert Stevenson", with a horizontal line drawn underneath it.

A. Robert Stevenson  
Fact Finder