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STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Before
Gerald E. Granadier
Fact Finder

City of Sterling Heights
(Field Unit)

Employer

and

MERC Fact Finding
Case No. D89 D-0945

Teamsters State,
County and Municipal
Workers, Local 214,
Union

FILED
AUG 21 1990
MERC

Sterling Heights, City of

LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

FACT FINDERS REPORT AND RECOMMENDATIONS

The undersigned, GERALD E. GRANADIER, under appointment as a Fact Finding Hearings Officer as of February 21, 1990, by the State of Michigan Department of Labor, Employment Relations Commission, to conduct Fact Finding Hearings in the above cause, pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Commission's Regulations in connection

therewith, and to issue a report with recommendations with respect to the matters in disagreement between the above mentioned parties. In accordance therewith a pre-hearing conference was held on April 2, 1990 at 13th Floor, 600 Renaissance Center, Detroit, Michigan to determine scheduling and issues outstanding.

Appearing for the City of Sterling Heights:

Michael Platek, Attorney

James Hock, Director of Staff Services

Appearing for Local 214:

James Markley, Local 214

Frank Conroy, Steward

It was determined at the pre-hearing conference that the following issues were outstanding between the parties:

- A. Wages
- B. Longevity
- C. Residency
- D. Pension Contribution
- E. Promotions
- F. Seasonal employees
- G. Out of class pay
- H. Optical insurance
- I. Meter Reader
- J. Commercial drivers license

The parties agreed tht exhibits and other

documents would be submitted to the Fact Finder by May 1, 1990 and formal hearings would begin on May 15, 1990. The formal fact finding hearings were commenced on May 15, 1990, at the offices of the Michigan Employment Relations Commission, Detroit, Michigan.

Appearing for the City of Sterling Heights:

Michael Platek, Attorney

James Hock, Staff Services Director

William Kutz, D.P.W. Superintendant

Appearing for Local 214:

James Markley, Local 214

Frank Conroy, Steward

Jeff Lucas, Steward

Ted Boehne, Steward

David Fox, Steward

Frank E. Zorhitz, Steward

Prior to this hearing your Fact finder offered his services to the parties as mediator. They agreed on May 15, 1990 that they would attempt to resolve the issues with the assistance of the Fact Finder. The entire day was devoted to that attempted resolution, and while some issues were resolved the entire matter nevertheless required formal hearing. The parties agreed to meet again on June 5, 1990. On June 1, 1990 your Fact Finder was requested to cancel the June 5, 1990 hearing and accordingly same was rescheduled for

June 22, 1990.

Formal hearings were then commenced on June 22, 1990. the parties agreed that the issues to be heard were as follows:

1. Wages
2. Pension Contribution
3. Seasonal employees
4. Optical benefits
5. Residency
6. Longivity
7. Commercial drivers license

Other issues which at the initial stages of the Fact Finding were unresolved were resolved and such were reduced to a written agreement which is attached to this report as Exhibit A.

Appearing for the parties on June 22, 1990 were the following:

City of Sterling Heights:

Michael Piatek, Attorney

James Hock, Staff Services Director

William Kutz, D.P.W. Superintendant

Local 214:

James Markley - Local 214

Frank Conroy - Steward

Jeff Lucas - Steward

Frank E. Zorhitz - Steward

David Fox - Steward

Dan Browning - Steward

The parties were given every opportunity, before, after and at all hearings to furnish all pertinent exhibits and introduce all pertinent testimony and information into evidence, in accordance therewith, exhibits in support of testimony, by each of the parties, were so submitted, along with post hearing briefs. The parties summarized their respective positions and set forth full oral and written arguments in connection therewith. Your Fact Finder, being fully advised in the premises, reports as follows:

ISSUES AND POSITIONS

Wages

City of Sterling Heights

The City offered during negotiations and at the formal Fact Finding hearings to increase wages as follows:

7-1-89, 3.5%

7-1-90, 2%

1-1-91, 2%

7-1-91, 2%

1-1-92, 2% fully retroactive

The City's proposal is based to a great extent upon the wage increases which the "overwhelming proportion" of other City employees settled in their contract negotiations. It relies primarily upon internal rather than external comparables. The City points out that the City office clerical group, the largest single employee group besides the within D.P.W. group, settled on an annual 3% wage increase, and that except for Act 312 imposed wage increases none of the other negotiated contracts contained wage increases greater than here proposed. It further points out however, that even the external comparables, i.e. City of Warren, Shelby Township, Clinton Township and the City of Troy, which all abut the City of Sterling Heights all have had wage settlements in the 3 to 4 per cent range.

The City's position with respect to maintaining a certain degree of evenness between its various bargaining units is fully understandable. It could possibly create great disunity and employee dissatisfaction if one unit obtained a grossly greater wage settlement than the others. Your Fact Finder is not unmindful of this situation.

Local 214

The Union propped a wage increase as follows:

7/1/89 - 3%

1/1/90 - 2%

7/1/90 - 3%

1/1/91 - 2%

7/1/91 - 3%

1/1/92 - 2%

The Union's comparables, i.e. Ann Arbor, Dearborn, Dearborn Heights, Farmington Hills, Livonia, Royal Oak, St. Clair Shores, Southfield, Taylor, and Troy were chosen not because they necessarily abut the City of Sterling Heights (although Troy does) but because of similarities in population, functions performed by its D.P.W., similarities in S.E.V., approximate geographic proximity, approximate similarities in revenue and revenue sources. The Union maintains that the City's internal comparables do not vary substantially with the Union's wage proposal.

The Union further points out the following factors which it feels substantiates its position:

- A. Cost of living (5% per year, approx.)
- B. Residency requirement (cost of housing, median - \$91,818.00)
- C. Median city income

The Union responds to the City's argument that Police and Fire units have greater wage increases

because they are Act 312 arbitration units by pointing out that it is the City's obligation to treat all employees fairly and implying that all should be treated equally. The Union feels it is not equitable for some of bargaining units to "continue to get richer and the poor, poorer until the D.P.W. employees are literally starved out of existence".

The Union further points out that the D.P.W. is charged with the responsibility of taking care of roads, water lines and meters, sewer system, landscaping and maintenance of public buildings and parks, and maintaining all trucks and equipment to perform the aforementioned. All this in a large City with a large population, at a ratio which is the one of the lowest employee to citizen ratios in the midwest. Obviously the Union and its D.P.W. workers are justifiably proud of its workforce and service to the community and feel they should be compensated fairly.

PENSION CONTRIBUTION

City of Sterling Heights

The City places particular importance on internal comparability in support of its position that the status quo should remain as to employee's 6.5% pension contributions. The City maintains that the union's own factfinding petition acknowledges the present 6.5%

contribution, up from a previous 5%, was negotiated and agreed to to partially offset the added costs of additional pension benefits. The present expired contract of the parties found in the "86-89 contract" portion of the employer's exhibits, shows that specific incremental increases in the employee's pension contribution were added contemporaneous with the addition of added pension benefits for spousal insurance, retiree full-funded health insurance, etc.

The City relies again on its' position that this groups employee pension contribution is identical to all other non "312" employees in the City. And that it would like to maintain that internal comparability. All comparable Sterling Heights employees should be treated comparably including, how much they contribute to their pension.

The City rebuts the Union contention that the pension fund is overfunded and further states that the demand to reduce the pension contributions is only a disguise for an additional 1.5% wage increase.

Local 214

The Union proposes a reduction of 1.5% in employee pension contribution. The Union relies on its comparables and the City's external comparables reflecting lower pension contributions than that of

this bargaining unit. It further points to the Act 312 units within the City that have lower pension contributions and positions itself as on other issues that while Act 312 units have greater benefits equity requires improvements in this units benefits also. The Union claims the pension plan is 124% funded and it therefore has no need for the 6.5% contribution.

SEASONAL EMPLOYEES

City of Sterling Heights

The City wishes to maintain the status quo which appears to be the following:

"The employer wishes to maintain the current policy under which seasonal employees can operate equipment and can work departmental overtime if all full-time employees have either been assigned or refused such overtime."

It maintains that it's current use of seasonal employees was previously negotiated and bargained by it and the Union, and that the City offered 1/2 of one per cent wage increase for the right to continue its current use of seasonal employees.

Local 214

The Union requests that there be "restrictions on a seasonal employee's ability to operate equipment and work over-time." It acknowledges that support for it's position is difficult to pin-point in comparable units,

primarily because the use of seasonal employees are not generally covered in labor contracts. Its' position, however, is that the work performed by seasonal employees has been eroding the ability for this bargaining unit to have its over-time, work assignments, equipment operaton, etc. that it would regularly have but for the City's unrestricted use of seasonal employees.

Optical Benefits

City of Sterling Heights

The City proposes elimination of Optical Benefits. The City claims that because of this benefit being almost valueless it has been able to negotiate it out of its other bargaining unit contracts (even Act 312 units). It claims it will be unable to purchase a group insurance contract to cover this benefit because of the small size of this group if this benefit remains.

Local 214

The Union proposes that this benefit be maintained. It states that it costs the City approximately 2 cents per hour. It counters the City argument that states that other City employees have dropped this benefit by showing that two of the internal units have optical coverage. And it also

states that two of the City's external comparables have optical insurance.

Residency

City of Sterling Heights

The City cannot agree to a modification of the charter residency requirement short of one accomplished through a proper revision of the City Charter by a vote of the residents of the City of Sterling Heights. The status quo contract language provides for immediate implementation of any such charter modification and/or elimination. The employer requests a factfinding award continuing the status quo.

The City has often stated that it has no outward opposition to modification of the City's present residency requirements. This issue of employee residency has been on the Sterling Heights ballot before. The citizens of the City flatly rejected any charter revision which would allow their City employees not to live in the City. Moreover, that issue is again on the ballot for the November 1990 election. The ballot proposal envisions residency in Macomb County only, and not the City proper. The voters will decide.

Local 214

The City has argued that this item is beyond the jurisdiction of the Fact Finder because it is a Charter

provision and can only be changed by a vote of the people. The Union is willing to concede the point but must point out that the Fact Finder is allowed, by PERA, enormous latitude in his recommendations. There are, the Union argues, several options open to the Fact Finder in this area.

A) The Fact Finder could fashion a strong statement to be made public setting forth the arguments against residency. It is the Union's belief that this could be used in the fall election to amend the Charter as far as residency is concerned.

B) The Fact Finder could find that substantial monetary relief was due the Union because of housing costs and the general high cost of living in the area.

C) The Fact Finder could order the City to create a department to find adequate and affordable housing if it continues to insist that employees live within the boundaries of the City.

The Union feels the well documented burden placed on employees by the residency requirement is such that the Fact Finding process will accomplish nothing unless relief is granted in some form regarding this issue.

Longevity

City of Sterling Heights

The City proposes no Longevity benefit. The City again, as it did in its proposal regarding wage increase, bases its argument primarily on internal comparability. It does not here need repeating. It acknowledges that almost all the external comparables reflect longevity payments. The City further responds to this demand indicating that with the increase in wages (as the City's offer) these D.P.W. employees would be among the highest paid D.P.W. workers as relates to all the comparable units. The City further re-iterates that except for Act 312 bargaining units none of the City units enjoy this benefit.

Local 214

The Union proposes longevity as follows: 2% - 5 years service; 4% - 10 years service; 6% - 15 years service; 8% - 20 years service.

The Union's argument primarily is based upon the comparable units, both the City's and the Union's. It restates that its comparable D.P.W. units all receive longevity pay and likewise do each and every one of the City's external comparables. It acknowledges that only Act 312 City units have longevity benefits, but states "so what", meaning, I assume that regardless of how this benefit was acquired, it is a benefit enjoyed by other City of Sterling Heights employees and therefore

should likewise be enjoyed by these employees.

Commercial Drivers License (C.D.L.)

City of Sterling Heights

The City proposes the status quo be maintained. The City maintains it is absolutely unable to negotiate and/or modify the requirements of the regulations. They are the law of this state and of the land, and are not modifiable by this entity or any other similar one. DPW employees are all required to obtain commercial drivers licenses because they all, on a regular or irregular basis, drive commercial vehicles as defined and regulated by the Act. They are trained on City time for such purposes. The cost of their licenses are paid for by the City. The cost of going to take the test is paid for by the City. They are compensated by the City for their endeavors in meeting the requirements of the State Act.

Local 214

The Union feels that the C.D.L. should be required only for employees whose occupations place them in those categories for which the C.D.L. is mandatory. The Employer wishes it to be a condition of employment for all employees. This, it seems to the Union, places

an unfair burden on those members to whom the operation of equipment is not an occupational requirement.

The Union presents the following arguments;

1) There are ample incentive for employees in non-equipment operating categories to obtain a C.D.L. They obviously could not promote to or even train for these historically higher paying positions without their C.D.L. They will not be eligible for higher paying out-of-class assignments involving operation of equipment without the C.D.L. (Note: out-of-class opportunities occur to cover absences in the higher classes. Along with pay for time worked, they provide on the job training.) They would not be eligible for overtime assignments for snowplowing and salting, by far the most prevalent overtime in the City.

2) The Union would have no objection to or even control over the City making the C.D.L. an entrance level requirement which would, eventually, mean the City's goal could be accomplished without the undue burden on current employees.

3) The Union feels that the conditions of

employment in place for those in non-driving occupations should not be affected by changes in the law for driving occupations. There may be reasons, physical or otherwise, why these employees have chosen to stay in the historically lower paying non-driving positions. To threaten their continued employment because of a law which has not intended to have any impact on their occupational groups seems grossly unfair and beyond the intent of the law.

4) Employees who, for one reason or another, could not obtain or lost their licenses could previously be assigned to non-driving categories. If the Employer's position is granted this historical "relief valve" which kept employees from being laid off or discharged would be gone.

5) This would represent a drastic and totally unwarranted change in working conditions for non-driving categories. Neither the Union nor the Employer, has any control over the mandate on driving categories (which represents approximately 75% of the employees) but the Employer is

using the law as a wedge to change conditions of employment which were in place when these employees hired in and have been in place for as long as the City has been in existence.

RECOMMENDATIONS

1. Wages

Your Fact Finder recommends wage increases as follows:

7/1/89	4.75%
7/1/90	4.25%
7/1/91	4.25%

2. Pension Contribution

Your Fact Finder recommends that the Pension Contribution by employees be reduced from 6.5% to 5% beginning July 1, 1991.

3. Seasonal Employees

Your Fact Finder recommends that the City of Sterling Heights be permitted to use seasonal employees to operate equipment and work departmental overtime but only if all full-time employees have been either assigned or are unable to be assigned to higher pay

work or refuse to be so assigned, re-assigned or refuse such overtime work.

4. Optical Benefits

Your Fact Finder recommends that the Optical Benefits be eliminated.

5. Residency

Your Fact Finder recommends that both the City of Sterling Heights and the Union take an active roll in the election to be held in November to educate and inform the electorate as to the value of removing the Charter provision requiring residency.

Your Fact Finder further recommends that in the event the November election fails to revoke the residency requirement that the City of Sterling Heights in order to provide decent low cost housing for its employees seriously consider the following:

1. Construction of low cost rental housing with City employees having the benefit of first tenancy.

2. Below market mortgage loans made to employees to permit living within the City at affordable cost.

3. Further wage increases to provide City employees the ability to live within the City.

6. Longevity

Your Fact Finder recommends a longevity benefit paid on the base rate of pay, with effective seniority date of hire, payable once each year as follows:

- 1% - 5 years service
- 2% - 10 years service
- 3% - 15 years service
- 4% - 20 years service

7. Commercial Drivers License (CDL)

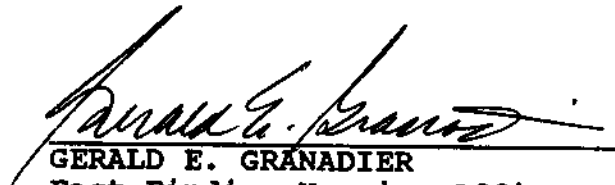
Your Fact Finder recommends that the City of Sterling Heights position with respect to maintaining the status quo be adopted with the restriction however that no current employee shall be suspended or discharged for failure to obtain such license.

CONCLUSION

The Fact Finding Hearings Officer again points out that the issues discussed in this report were, I believe, all the major issues submitted by the parties. It is my sincere hope that upon adoption of the recommendations herein set forth, that the parties can conclude their collective bargaining negotiations. In

the event additional services of your Fact finder is required, I stand ready to be of continued service.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gerald E. Granadier", is written over a horizontal line.

GERALD E. GRANADIER
Fact Finding Hearing Officer
600 Renaissance Center
13th Floor
Detroit, Michigan 48243
(313) 567-4200

Dated: August 20, 1990



City of Sterling Heights

40555 Utica Road
Sterling Heights, Michigan 48078

MAYOR
Jean Di Rezze Gush

MAYOR PRO-TEM
Stephen M. Rice

COUNCIL
Larry W. Burkhart
Stanley T. Grot
Deanna Koski
Richard J. Notte
Richard J. Zettel

July 20, 1990

Mr. Gerald Granadier ,
13th Floor
600 Renaissance Center
Detroit, MI 48243

Re: CITY OF STERLING HEIGHTS AND TEAMSTERS
LOCAL 214 - MERC CASE NO. D-89 D-0945.

Dear Mr. Granadier:

As was stated on record at the Fact-Finding Hearing, both parties have agreed upon some issues that were set forth in the petition with MERC. We wish to mutually outline our agreement on these items for you:


1. Promotions -
Both parties agree that the status quo will exist as interpreted by the Harry Brooks arbitration decision.
2. Out-of-Class Pay -
At the beginning of the shift, the City will determine if there is a need to have an individual work out-of-class for those positions that are located in the D.P.W. Building. Determination for out-of-class pay in the Field located positions will be as has been past practice.
3. Blue Cross/Blue Shield Coverage -
Both parties are in agreement that the pre-determination and mandatory second surgical opinion riders be included as a part of the agreement.
4. The Meter-Reader Position -
Both parties agree that the status quo will exist and therefore, no contractual language changes are needed.

James D. Hock
Director Staff Services
(313) 977-6123 Ext. 101
FAX# 977-6239

Mr. Gerald Granadier
July 20, 1990
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5. Commercial Driver's License-

Apparently, the parties cannot agree that this has been resolved and thus, will be submitting arguments in writing to the Fact Finder for your recommendation on this issue. The parties have agreed that the Federal Law establishing the licensing requirements will be the only supporting document submitted.


James D. Hock, Director
Staff Services

 7-20-90
James Markley
Business Representative

mg

c: Michael Piatek, Esq.