

1774

FF 8/13/99

STATE OF MICHIGAN

DEPARTMENT OF CONSUMER & INDUSTRY SERVICES

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF THE

FACT FINDING BETWEEN

THE COUNTY OF ST. JOSEPH,

MERC Fact Finding Case

—and—

No. L 98 J-7004

POLICE OFFICERS ASSOCIATION OF MICHIGAN

FINDING OF FACTS AND RECOMMENDATIONS

INTRODUCTION

Pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Commission's regulations, a fact finding hearing was held regarding matters in dispute between the above parties. Pursuant to an agreement between the County of St. Joseph, hereinafter referred to as the "Employer" and the Police Officers Association of Michigan, hereinafter referred to as the "Union," a hearing was held on July 22, 1999 at the St. Joseph County Courthouse in Centreville, Michigan. The undersigned, William E. Long, was appointed by the Michigan Employment Relations Commission as the Fact Finder.

St. Joseph County

APPEARANCES

FOR THE EMPLOYER

Judy West, County Administrator
Brad Whaley, County Finance Director
Andy Goldberger, Central Dispatch Director

FOR THE UNION

Thomas Griffin, POAM Business Agent
Douglas Kuhlman, Telecommunicator
Chris King, Telecommunicator

BACKGROUND

The bargaining unit, which is the subject of this fact finding, consists of 10 personnel employed by the County in the County's E-911 Telecommunications Unit. These employees are represented by the Police Officers Association of Michigan (Union). The County has provided this 911 service for its citizens for approximately 7 years. The Union and the Employer entered into a collective bargaining agreement for the period January 1, 1996 through December 31, 1998. During the course of that agreement, the parties engaged in discussions which were consummated in a letter of agreement (U-5) dated January 7, 1997, which revised the classification and wage program for the employees of this unit and revised Article XVIII of the contract, revising the pension multiplier and restricting the Employer's contributions to the pension from withdrawal by the employee, other than through retirement.

The January 1, 1997 agreement, with respect to wages, provided that the previously agreed to wage increase of 2% effective January 1, 1997 remain in effect and effective January 1, 1998 the classification and compensation system change from a 4-step, 3-year increment system to a 9-step, 8-year increment system. The wages of the members of the bargaining unit were effected slightly differently beginning January 1, 1998 as a result of this new system, but employees generally received between a 3.0% and 3.6% increase in wages beginning January 1, 1998 (U-5). Several other county employee bargaining units had previously agreed to this new classification system effective January 1, 1997. Among them were employees represented by

AFSCME employed in the general county unit, circuit court, probate court and district court units and those employees not in a collective bargaining unit. The county road deputies and corrections officers, also represented by POAM, were not offered this new classification system and, therefore, retain the 4-step, 3-year system.

In November 1998 the Union and the Employer began negotiations to address components of a new contract to begin January 1, 1999. After negotiation meetings and 1 mediation session, the parties were able to agree on all items except wages. At that time the parties agreed to submit the wage issue to fact finding.

The Employee Relations Commission appointed this fact finder in a letter dated May 18, 1999. At the July 22, 1999 hearing the Employer presented 3 exhibits (referred to as E-1 through E-3) and the Union presented 5 exhibits (referred to as U-1 through U-5). The parties were offered the opportunity to submit post-fact finding briefs on or before August 6, 1999. The Union submitted a brief on July 28, 1999 and the Employer submitted a brief on August 6, 1999.

FACT FINDER AUTHORITY

Fact finding in the State of Michigan is defined under the applicable provision of the Labor Relations and Mediation Act (Act 176 of the Public Acts of 1939, as amended), and the general rules and regulations of the Michigan Department of Consumer and Industry Services/Employment Relations Commission. The administrative rules pertaining to the fact finding are found in part 3 of the Administrative Rules and Regulations, R423.421 through R423.435. Although the statutes and rules of the Department and Employment Relations Commission do not provide the fact finder with guidelines under which to reach findings of fact, conclusions of law and recommendations, many fact finders look to the legislative intent contained in Act 312 of the Public Acts of 1969, as amended. Further, Section 9 of Act 312 (MCLA 423.239) sets forth the public policy of this State relating to public sector labor disputes

and the criteria to be followed by a State-appointed arbitrator in rendering his or her report.

The applicable factors to be considered as set forth in Section 9 are as follows:

- (a) *The lawful authority of the employer.*
- (b) *Stipulations of the parties.*
- (c) *The interests and welfare of the public and the financial ability of the unit of government to meet those costs.*
- (d) *Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:*
 - (i) *In public employment in comparable communities.*
 - (ii) *In private employment in comparable communities.*
- (e) *The average consumer prices for goods and services, commonly known as the cost of living.*
- (f) *The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.*
- (g) *Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.*
- (h) *Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.*

The fact finder has used these factors as a guide and the above factors were considered but not discussed in the interest of brevity.

STATEMENT OF FACTS

The Employer is a relatively small to mid-size County in Southwestern Michigan. In its 1990 census its population was 58,913 (E-2). The County employs approximately 172 employees including the 10 employees in this bargaining unit. Approximately 46 employees are not in a bargaining group and the rest are in bargaining units. Employees in this unit serve all of the citizens of St. Joseph County with 911 service, with the exception of the City of Sturgis. Employees in this unit have been relatively stable with seniority ranging from 1 to 7 years. The unit began operation approximately 7 years ago (E-1).

FINANICAL CONDITION OF THE COUNTY

There was no evidence presented at the fact finding hearing to indicate that the County was not in sound financial condition. Its 1999 taxable value was approximately \$1.1 billion (E-2). The operating funds for the 911 services are derived from a special millage of .07455 (E-2). Testimony at the hearing revealed that this millage does provide sufficient funds for operations of the unit and in addition is currently paying back a loan from the County to pay for the physical space occupied by the unit. The County is planning to construct a new facility to house members of this unit at an estimated cost of \$500,000. It is anticipated that the new facility would be paid for out of the millage operation tax levied and that there has been approximately \$623,000 surplus accumulated in that fund for this purpose (U-4). The Employer is not claiming an inability to pay reasonable wages, but believes that its wage proposal is fair and equitable and comparable to those of other employees in the County and within its proposed comparable communities and fiscally responsible to the County taxpayers.

COMPARABLES

The Employer urges the fact finder to consider the relationship and agreements it has with other bargaining units when reviewing the facts in this matter. Specifically, the Employer argues that recent contract negotiations with bargaining units representing the general county unit, circuit, probate and district court employees should be looked to since they also agreed to the same change in the classification and compensation system as this unit did and implemented that change in 1997. Those bargaining units, along with the non-contract group, received an across the board increase, in addition to the changes resulting from the new classification compensation system, of 1% in January 1, 1998 and 1% in January 1, 1999 (E-1). The Employer, in its post-hearing brief indicates that it is difficult at best to compare non-law enforcement positions with law enforcement positions. It argues that comparing this

bargaining unit with the law enforcement units within the County, the road deputies and corrections officers, is not a valid comparison.

The Union, on the other hand, urges the fact finder to consider and compare internal comparables including the road deputies and corrections officers. The Union points out that the road deputies received a 3% increase in 1998, a 4% increase in 1999 and will receive a 4% increase in 2000. The corrections officers received a 3% increase in 1998, a 3% increase in 1999 and will receive a 2% increase in 2000. In addition, the Union notes that the director of the E-911 services received a 3.3% step increase plus a 1% across the board increase for 1998 and a 3.2% step increase plus a 1% across the board increase in 1999 (U-1).

For external comparables the Employer presented Employer Exhibit E-2, which contained 13 counties it proposes the fact finder consider as comparable for evaluating the facts in this matter. The Employer selected these counties by considering counties in the lower half of Michigan's Lower Peninsula and selecting from those counties those which had a population that ranged from 40% above to 40% below the population of St. Joseph County and/or that had a taxable value in 1999 of a range of 40% above or 40% below that of St. Joseph County. The Employer also calculated the number of counties that would be within a 20% plus or minus population range and taxable value range of St. Joseph County and found that 9 of the 13 counties fell within 20% of the range for population and 6 of the counties fell within 20% of the range for the taxable value. Using the 40% plus or minus range the Employer urges the fact finder to consider as comparable counties the Counties of Barry, Branch, Cass, Gratiot, Hillsdale, Ionia, Isabella, Mecelo—*(sic)* which really represents a combined population of Mecosta and Osceola Counties because of a service unit that serves both of those counties—Montcalm, Newaygo, Shiawassee, Tuscola and Van Buren (E-2).

The Union urges the fact finder to consider the following units of government as external comparable communities in this matter: the Counties of Barry, Berrien, Branch, Cass,

Kalamazoo, Van Buren and the City of Sturgis (U-2). The Union urges these units of government as comparables based primarily on their geographic proximity to St. Joseph County and relative size. Of course, in the case of Sturgis, which is a city within St. Joseph County, the Union's point is merely that it is a unit of government within the county that has an independent E-911 dispatch service.

The fact finder is sensitive to the employee relationships within a county of this size. The fact finder believes that the employees in this bargaining unit must relate to employees in other bargaining units and the non-contractual employees within the county. The Employer's discussions and ultimate agreements with this bargaining unit and those of the general unit and courts relative to the recent changes in the classification and compensation system demonstrate this relationship. On the other hand, by the nature of the work of the employees in this bargaining unit, they must relate to and come in contact frequently with the law enforcement employees in the road deputies position in particular. The hours of employment and critical nature of the decisions employees in this unit must make in emergency situations is more similar to those made by law enforcement officers and road deputies than those in most other functions within county government. In some units of government the functions of dispatchers are carried out by certified police officers. In fact, the Employer's post-hearing brief notes in its argument to reject the City of Sturgis as a comparable that wages identified in Union Exhibit U-2 for Sturgis may reflect both civilian dispatchers and dispatching covered by certified police officers compensated at a higher rate of pay than dispatchers.

For internal comparable comparisons, the fact finder views the responsibilities of the employees in this bargaining unit as somewhere in between the employees in law enforcement positions and the employees in non-law enforcement positions. When considering proposed external comparables the fact finder acknowledges that both parties have proposed the external comparables of Barry, Branch, Cass and Van Buren Counties. The fact finder accepts

those units of government as comparables even though Branch County does not fall within the 20% plus or minus range of population and taxable value and Van Buren County does not fall within the 20% range for taxable value. In addition to those 4 counties the fact finder accepts the following units of government as external comparables in this matter: Meceloa, Montcalm, Shaiwassee and Tuscola Counties. All of these counties fall within the 20% plus or minus range of St. Joseph County's population and taxable value as presented by the Employer in Employer Exhibit 2. The remaining counties proposed by the Employer exceed the 20% plus or minus difference in either or both of the population and taxable value categories. The 20% plus or minus range is a reasonable range for comparison purposes. When added to the 4 units of government agreed to by the parties this provides 8 comparable units of government, which is a sufficient comparison. The fact finder rejects the Union proposed comparables of Berrien and Kalamazoo Counties and the City of Sturgis. The Union did not provide, other than geographic location, a basis for using these as comparable units of government.

Therefore, based on the above described analysis, the fact finder has selected the following units of government as external comparables for purposes of evaluating the issues in this case: the Counties of Barry, Branch, Cass, Van Buren, Meceloa, Montcalm, Shaiwassee and Tuscola. Fact finder attachment #2 lists these counties and describes the wage comparisons of newly-hired employees and those of the top of the wage range for each of these comparable counties with St. Joseph County employees in this bargaining unit for the 1999, 2000 and 2001 time periods as described in Employer Exhibit 3. The wage depicted in fact finder #2 for St. Joseph County employees is taken from Employer Exhibit 1, item 18, based on the current employees seniority described in that exhibit. The fact finder believes this to be a more accurate depiction of the actual impact on the employer and the union employees for this contract time period.

DISCUSSION OF ISSUE IN DISPUTE

As indicated previously, the only issue in dispute in this matter is the issue of the across-the-board percentage increase that employees in this unit may receive in addition to the step increases they will receive during the course of the contract agreement. The Employer has offered a 1% increase beginning January 1, 1999 and a 2% increase beginning January 1, 2000 and January 1, 2001. The Union proposes a 3% increase for each of the three years beginning January 1, 1999, 2000 and 2001. The Employer points out in its post-hearing brief that its proposed increases combined with the step increases will average 4.04% for 1999 with 1 member receiving 1.6%, 1 member receiving 3.0%, 3 members receiving 4.6% and 5 members receiving 4.4%. The average increase for 2000 would be 5.42% and 5.32% for 2001. The Union argues that step increases are traditionally in all bargaining agreements and just because the Employer and the Union agreed to a revised step increase schedule does not negate the need for an across the board increase. The Union also argues that the wage offered by the Employer is below that received by other county employees through negotiations and by employees of other comparable units of government providing similar duties.

As noted earlier, the fact finder views the duties and responsibilities of the employees in this bargaining unit as somewhere in between the employees of the county providing law enforcement functions and those in non-law enforcement responsibilities. Therefore, it is understandable that the employees would look to the law enforcement units for some guidance in their relationship with their employer and it is reasonable that the employer would look to relationships with other non-law enforcement employees for guidance in their relationship with the employees in this unit. As the Employer points out in its post-hearing brief, it is difficult to make true comparisons of employees internally or externally when considering total compensation packages since there has been no evidence presented in this

proceeding describing other compensation provided to employees in this or other groups such as longevity, holiday or overtime compensation.

Because of this, the fact finder relies heavily on the evidence presented in this case relative to the external comparables. Using data from exhibits entered in this case, the fact finder has developed fact finder attachments #1 and #2 which display his evaluation of the external comparables and the impact the parties proposals would have in comparison to those external comparables. Fact finder attachment #2 describes the 1999, 2000 and 2001 wages for a new hire and for an individual at the top of the pay range for the external comparable units of government considered in this matter. A comparison is then made of the average of those wages with the proposals advanced by the Employer and the Union. The fact finder has then compared those proposals with a fact finder recommendation of a 2% increase in addition to the step increases for each of the years beginning January 1, 1999, 2000 and 2001.

Using the information taken from Employer Exhibit 1, item 18, the fact finder has prepared fact finder attachment #1 which depicts the wages which would be attributed to the new hire and those at the top of the wage scale for the current employees in this bargaining unit applying the Union proposal and the fact finder recommendation. Those same figures have been used in fact finder attachment #2 for comparison with the external comparable units of government.

Fact finder attachment #2 reveals that both the Employer and Union proposals would result in a wage for the entry level person in St. Joseph County higher than the comparable units of government and a wage at the top level, lower than the comparable units of government for 1999. Beginning in 2000 both the Employer's and the Union's proposal would continue a wage higher than the comparable units at the entry level, but the Employer's proposal would result in a lower wage than the average comparable units for the top level, while the Union's proposal would result in a wage slightly higher than the average for the top

level. Beginning in 2001 the Employer's proposal brings the entry-level wage four cents above the comparable's average, but the top level wage would be forty cents below the average. On the other hand, the Union's proposal beginning 2001 would result in an entry-level wage for St. Joseph employees fifty-six cents above the average of the comparables and a top wage of eighteen cents above the average of the comparables.

The fact finder's proposed recommendation, as can be seen, is a compromise between the two. The fact finder's recommendation results in lesser variations from the comparables in the years 1999 and 2000 than either the Union or Employer proposal, but a more important distinction is that it comes much closer to the external comparable average beginning in the year 2001 compared with either the Employer or Union's proposal. The fact finder recognizes that the evidence data available for 2001 allows a comparison with only 3 external counties, but it is never the less sufficient for comparative purposes. Additionally, by the time the parties need to address this issue in a subsequent contract, other comparable units of government will likely have acted upon their contracts encompassing wages for 2001 and beyond so that additional information may be available.

RECOMMENDATION

Considering both the internal and external comparables and the employees duties and responsibilities in relationship to other employees within St. Joseph County and to those other employees performing similar duties in other units of government, and for the reasons indicated above, the fact finder recommends a wage agreement for the period beginning January 1, 1999 and ending December 31, 2001 that would provide a 2% increase beginning in January 1999, 2000 and 2001 for members of this bargaining unit in addition to the step increases already provided for in their current agreement.

CONCLUSION

For all of the reasons stated above, the fact finder makes his finding of fact and his recommendations in the hope that this will facilitate the parties' negotiations for agreement on this issue in their contract. This report is submitted to the parties and to the Michigan Employment Relations Commission in accord with Michigan Employment Relations Rule 35.

August 13, 1999

William E. Long

Respectfully Submitted
William E. Long, Fact Finder

FACT FINDER #1

Union Proposal—Step increases plus 3% each year

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1998	11.81	12.23	12.66	13.09	13.51	13.94	14.36	14.80
1999	12.16	12.60	13.04	13.48	13.91	14.36		
2000	12.52	12.97	13.43	13.89	14.33	14.79		
2001	12.90	13.36	13.83	14.30	14.76	15.23		

Fact Finder Recommendation—Step increases plus 2% each year

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1998	11.81	12.23	12.66	13.09	13.51	13.94		
1999	12.05	12.47	12.91	13.35	13.78	14.22		
2000	12.29	12.72	13.17	13.62	14.05	14.50		
2001	12.53	12.99	13.43	13.89	14.34	14.79		

FACT FINDER #2

Unit of Government	1999 Wages		2000 Wages		2001 Wages		Steps	Years
	Hire	Top	Hire	Top	Hire	Top		
Barry	11.14	13.26	11.47	13.66	11.81	14.07	3	2
Branch	11.04	13.81					6	5
Cass	12.04	13.50	12.40	13.90			4	4
Van Buren	12.94	15.92	13.33	16.40			3	3
Meceloa	9.32	12.75	9.51	13.01			7	7
Montcalm	12.48	13.66	12.99	14.21	13.44	14.71	4	4
Shawwassee	13.73	15.44	14.14	15.90	14.56	16.38	4	4
Tuscola	10.35	12.18	10.66	12.55			3	3
AVERAGE—exclusive of St. Joe Co.	11.63	13.81	12.07	14.23	13.27	15.05		
St. Joe (Co. Proposal)* (1%, 2%, 2%)	11.93	13.22	12.60	13.92	13.31	14.65	9	8
St. Joe (Union Proposal)* (3%, 3%, 3%)	12.16	13.48	12.97	14.33	13.83	15.23		
St. Joe (Fact Finder Recommendation 2%, 2%, 2%)	12.05	13.35	12.72	14.05	13.43	14.97		

*Wage for current employees taken from E-1, item #18