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**STATE OF MICHIGAN  
DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

**In the Matter of Fact Finding  
Between:**

Teamsters Local 214  
(Employee Organization)

Case No. D08 C-0299

-and-

Before Fact Finder  
*Donald R. Burkholder, Ph.D.*

County of Lapeer  
(Employer)

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APPEARANCES

FOR THE EMPLOYER

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FOR THE EMPLOYEE ORGANIZATION

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Teamsters Local 214  
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The Teamsters 214 Lapeer County General Unit and the Employer were unable to agree on a successor to their Agreement of January 1, 2004 to December 1, 2006. More than five hours of mediation on April 1 and April 28, 2008 had resulted in little progress. The employee organization, with 45 members and numerous categories of positions, filed a Petition for Fact-Finding with the Michigan Employment Relations Commission (MERC) on May 14, 2008. There were allegations that one party or the other was unwilling to negotiate, stemming in part from a petition for an unfair labor practice hearing filed by the Union. The Petition for Fact-Finding listed unresolved issues in dispute as follows:

- |                                       |                            |
|---------------------------------------|----------------------------|
| 1. Wages                              | 7. Promotions              |
| 2. Retroactivity                      | 8. Training                |
| 3. Health Care Sharing                | 9. Layoffs and Bumping     |
| 4. PEHP (Post Employment Health Plan) | 10. Classification Changes |
| 5. Work Rules                         | 11. Holiday Qualifications |
| 6. Upgrades                           |                            |

A number of additional related issues arose during the course of the Hearing on October 2, 2008, and in subsequent briefs and exhibits by the parties, inter-related with the issues listed., including Health Care for Retirees, Inclement Weather, Recognition, Discharge and Discipline, Grievance Procedure, Soil and Sedimentation position, Direct Deposit, Duration (and termination) of Agreement, Meetings and Seminars, Meal Reimbursement, Safety Issues, County Rights Under Public Employee Relations Act (PERA). Twenty-three issues were analyzed and recommendations formulated.

Careful review of the issues presented, with special attention to the financial condition of the County present and future justify the Employer position on numerous issues. Lapeer County, north of Oakland County and on the far outer edge of the Detroit metropolitan area, experienced increasing population from 1998 until 2006 when it reached a peak of 93,761. Another significant measure, K-12 school enrollment, has been decreasing since 2004. The unemployment rate is also increasing, and was reported as 10.30 percent in 2008 by the Lapeer County Press in September of 2008. Interest on the

County's investments fell ten percent in 2007 and an estimated, i.e., budgeted, twenty six percent in 2008, or approximately \$251,000 since 2006. State Revenue Sharing decreased consistently since 2002 and was eliminated in 2005. Premiums for family medical, vision, dental, and prescription base program have been steadily increasing by six percent a year for the past three years. County health fund expenditures were \$3,500,000 in 2006, \$3,330,652 in 2007, and an estimated (budgeted) \$3,800,000 in 2008, a 14% increase over 2007. Utility expenses are expected to increase by 19% for 2008, to \$586,952. The County has been diligent in amending its General Appropriation Act for Fiscal Year 2009 to reflect the loss of revenue sharing and decreased revenue from taxes. Increasing unemployment, decreasing property values and foreclosures are significant elements in the County's consistently decreasing tax rate, with property tax collections having leveled off in 2006, then falling off steadily, with an expected decrease of at least \$673,792 in 2008. Parcels delinquent or in forfeiture are steadily increasing, with approximately 400 forfeiture notices mailed, and subsequently approximately 300 more parcels forfeited between 2007 and 2008.

The present nationwide recession, falling property values, elimination of state revenue sharing, steadily increasing health insurance and pension costs including health insurance costs for retirees must be considered when balancing the County's presently healthy financial status with its most certain future condition. Substantive research showing decreasing revenue, increased property foreclosure, decreasing property values, and declining population are unquestionably the most accurate snapshot of the future available, and must be dealt with and given considerable weight. Absent a miraculous recovery not only of Michigan's automobile based economy and an end to the national and worldwide recession, these estimates reflect present reality and the best available picture of the future.

It is indeed unfortunate that this general employee unit apparently delayed serious negotiations until after its several brother/sister Teamster units as well as American Federation of State, County, and Municipal Employees (AFSCME) and police units had reached agreement. The County's financial condition was relatively if not significantly better prior to the serious economic downturn of 2008-2009. Reaching agreement on economic matters of any sort today is obviously more problematic. Given these

circumstances, and perhaps especially because of the financial picture present and future, it should be emphasized that a Fact-Finder's recommendations are just that – recommendations. Recommendation of several Union proposals, if incorporated into a successor Agreement, would increase disparity between and among units, most notably between Teamster units. The fostering of good labor relations generally is a significant objective for this Fact-Finder among the numerous other factors which must be evaluated, most notably Lapeer County's financial viability. Nothing suggested here would preclude further negotiation, or even the re-opening of the Agreement should the parties so agree and the circumstances warrant.

An end-date of December 31, 2010 would provide the County the ability to budget with relatively more certainty during a period of sharply declining revenue. Wage increases with no retroactivity of two percent (2 %) on January 1, 2007 and January 1, 2008, and a one percent (1 %) increase January 1, 2009, and no increase January 1, 2010 are appropriate and prudent given the existing financial overview and revenue prediction based on the most reliable information available. The Tentative Agreement of December 2006 is the point of departure for these wage recommendations.

The cost of wages, health care both for present employees and for retirees, are obviously intertwined in terms of the significance of total cost. Therefore, the Employer position on these issues, including Post Retirement Health Plan (PEHP) are rational in terms of orderly administration and limitation of expenses, and in my view perhaps most important, similarity to settlements in sister bargaining units. The Union's position that increases in cost sharing by employees not take effect until 2009 is out of line with the experience of the other bargaining units, most notably with other Teamster units. The Glendon award is a fact of life; however, I recommend that the Union consider it a negotiable matter given the likelihood that hard feelings and resentment among and between an employee organization's bargaining units is harmful to all parties involved. Similarly, the Union request for two County payments into the PEHP is inconsistent with the experience of the related bargaining units, especially and unconscionably expensive for the Employer, and would serve no positive purpose for the overall good of the employees or the employer.

**Specific Recommendations**

**Wages:**

- 2007 Two Percent
- 2008 Two Percent
- 2009 One Percent
- 2010 No increase.

Retroactivity: No retroactivity.

**Health Care Sharing:**

[Recommendation: Mixed. The Union should consider serious negotiation regarding the continuing application of the Glendon award because of the disparity it creates between units between units The Union request that Employer place the amount of the high deductible into a Health Savings Account is unreasonable and would again increase disparity between units, especially Teamster units. Such disparity would be harmful to the work environment, and thus not conducive to healthy, positive labor relations.]

**Post Employment Health Plan (PEHP) – Second Payment:**

[Recommendation: Employer position. No change. A disparity in the treatment of units is not conducive to healthy, positive labor relations. A second payment to this unit would appear to be an imprudent and damaging raid on County finances, and would serve no useful purpose except for its immediate recipients.]

**Health Care for Retirees**

[Recommendation:]

F. Article XXVI – Health Care fir Retirees

1. Modify.

Effective January 1, 2007, retirees shall not be included in the County group insurance plan after reaching Medicare eligibility age.

**Work Rules:**

[Recommendation: Employer Position. Status quo.

The Union requests to add language to require that **new policies** along with new work rules must be given to the Employees and the Union at least ten (10) working days prior to the implementation date. The Employer argued that virtually any order given by a manager in its past experience was subject to being considered a new policy by the Union, and therefore subject to the grievance procedure. As the County notes, “In today’s economic times, having managers manage and avoiding grievances is a valid basis for maintenance of the status quo,” noting that no other county contract has this language. No comparable language or practice is apparent.]

**Upgrades – Mixed Recommendation**

Drain Maintenance	Level 6
Drain Maintenance Supervisor	Level 7
Soil and Sedimentation Supervisor	Not properly before the Fact-Finder.

**Promotions – Article 40**

[Employer Position. Status quo. However, further discussion/negotiation may be constructive for this or future agreements. The Bay County language in Union Issue 17 appears clear, concise, and reasonable. This matter needs to be clearly addressed in the next contract. Nevertheless, seniority alone is not the most useful yardstick to determine which applicant meets the qualifications.]

**Training**

[Recommendation: Employer Position. The Union seeks language where “training opportunities would be offered equitably with consideration being given to seniority if the training involves a promotional opportunity, qualification, a new procedure, or implementation of new equipment.” The Employer responds convincingly that preference for seniority would be a recipe for administrative, service, and labor relations disaster, i.e., offering training opportunities across jurisdictional lines regardless of whether the employee needs it for their job assignment. The variety of administrative divisions – Labor, Drain Commissioner,

Prosecutor, Sheriff's Department, etc. – would make such a training requirement unrealistic. Application of the Union preference for seniority in training assignment would most assuredly result in numerous costly and deleterious grievances, and motivate negative relationships among and between employees.]

### **Layoff and Recall, Article 11 – (Bumping)**

[Recommendation: Employer Position.

The 2004- 2006 Agreement contains adequate language. Article XI (d) in its entirety addresses the 'bumping' issue, e.g., "...Such removed employee shall be entitled to exercise their bargaining seniority and be assigned to another job classification of equal or lower pay rate, provided the employee is capable of performing the work in such other job classification. Should an employee or employees be displaced by the procedure outlined in this section, it shall be the employees with the least job classification seniority. Such employee(s) shall be entitled to exercise his seniority as set forth herein."]

### **Classification Changes**

[Recommendation: Employer Position: Status Quo. The example in the Union Brief involves the judiciary. The Employer, a "general" government, has limited or no control over the actions of the judiciary, just as the Chief Executive or the Legislative branches of government at all levels have similar limitations because of the foundational American principle/practice of separation of power between the branches. Although this recommendation will not be helpful in resolving similar problems in the future, the Union proposal would result in fruitless and continuing grievances involving practices in the courts. For these reasons there is no practical remedy.]

### **Holiday Qualifications**

[Recommendation: Add to the existing language.]

"...or with medical verification affirming the employee should not report to work the day before the holiday."

### **Inclement Weather**

[Recommendation: Delete existing language and add.]

In the event that inclement weather causes management to cease operations, employees who do not work because of such closing shall be paid for their rate of pay for that particular day or time that the facility was closed.

### **Recognition**

[Recommendation: New language as follows.]

Article II – Domestic Relations Secretary

The Domestic Relations Secretary position shall be removed from the Teamster FOC Bargaining Unit and reassigned to the Teamster General bargaining unit.

### **Discharge and Discipline**

[Recommendation: New Language as Follows.]

B. Article VIII Discharge and Discipline

1. Section 2 (a) (Page 11)

Reduce 24 months to 18 months except for capital violations, which will remain at 24 months, including but not limited to, the use of illegal drugs, theft, being under the influence of alcoholic beverages, being reportedly offensive in conduct in conduct or language to the public, or if the employee issues slanderous or libelous statements publicly against a fellow employee of the Employer and any action that results in a five (5) day suspension or more.

### **Grievance Procedure**

C. Article IX, Section 1 (3-A) Grievance Procedure.

[Recommendation: Union Position, i.e., current contract language. There were no available comparables, and judicial decisions would appear to negate any limitation on union member prerogatives in addition to the normal grievance process. Adoption of the County position would probably lead to considerable litigation and expense for the parties.]



**Soil and Sedimentation Position**

[Recommendation: None. This issue is not properly before the Fact-Finder. The Union was successful in accreting this position to the unit; changes in the current situation are subject to negotiation.]

**Direct Deposit**

[Recommendation: As follows.]

G. Direct Deposit

Employees hired after 1/1/07 shall be encouraged to utilize direct deposit. If allowed by law, employees who do not participate in direct deposit will be charged a fee of \$25.00 for stop payment and/or \$25.00 for separate check run for a lost or destroyed payroll check.

**Meetings and Seminars**

[Recommendation: Current language, Article XXXIV].

**Meal Reimbursement**

[Recommendation: Current language. Article XXI]

**Safety Issues**

[Recommendation: County position. Although I do not question the Union position that there is no outstanding issue of safety at this time, safety is an ongoing concern for all involved, and the language appears reasonable].

The County will address safety issues with appropriate personnel.

**County Reserves Rights Under PERA**

[Recommendation: Union Position. The County language appears to be superfluous in view of the fact that the PERA is in place, is a point of reference, and could be referred to, used, as needed. No resolution on this issue is needed.]

**Duration**

[Recommendation: County Position.]

January 1, 2007 – December 31, 2010.

I appreciate the professional demeanor and consistent assistance of the advocates in explaining some of the numerous and complex issues, as well as their patience in awaiting this report. And, I trust that the parties will make constructive use of these recommendations in developing an Agreement which will lead to stable, respectful, and productive relationships.



Donald R. Burkholder, Ph.D.,

Fact Finder

March 23, 2009