

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF ST. CLAIR SHORES,
Petitioner-Public Employer,

Case No. UC99 F-17

-and-

INTERNATIONAL UNION, UNITED AUTOMOBILE
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA, LOCAL 412, UNIT 79,
Labor Organization,

-and-

AMERICAN FEDERATION OF STATE, COUNTY &
MUNICIPAL EMPLOYEES, COUNCIL 25,
Labor Organization.

APPEARANCES:

Lange & Cholack, P.C., by Eric W. Cholack, Esq., for the Employer

Laura J. Campbell, Esq., for the UAW, Local 412, Unit 79

Kevin Bramlet, Administrative Director, for AFSCME Council 25

DECISION AND ORDER ON UNIT CLARIFICATION

Pursuant to Sections 12 and 13 of the Public Employment Relations Act (hereafter "PERA"), 1965 PA 379, as amended, MCL 423.212 and 423.213; MSA 17.455(12) and MSA 17.455(13), this case was heard in Detroit, Michigan, on February 4, 2000, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. Based on the record, including post hearing briefs filed by April 21, 2000, we find as follows:

The Petition:

On June 4, 1999, the City of St. Clair Shores filed a unit clarification petition to determine the appropriate placement of a communications technician position. The petition reads, in pertinent part:

The City recently created a new non-supervisory Communications Technician position in the Communications Department within the Library. Effective as of its June 1, 1999 start date, this new position functions in a support capacity under the Communications Director (a supervisory position represented in a UAW supervisory unit), and provides technical assistance in implementing city communication activity. AFSCME, UAW and MAPE have all expressed to the City an interest in this position.¹ The City has filed this Petition in order that MERC may determine the appropriate unit placement of this position.

During the February 4, 2000, hearing, the parties stipulated to the relevant facts.

Facts:

The Employer has two non-supervisory general bargaining units. A nonsupervisory unit represented by American Federation of State, County and Municipal Employees, Council 25 (hereafter "AFSCME") was created in the 1950s. It includes approximately 100 employees in three categories: laborers, clerical, and technical employees. The clerical component includes nine library aides. The technical employees include classifications such as code enforcement officers, electrical inspectors, rehabilitation coordinators, systems specialists, and senior accountants. Employees in the various classifications earn between \$27,027 and \$43,3000 annually.

The second non-supervisory unit is represented by the International Union, United Automobile Aerospace and Agricultural Implement Workers of America, Local 412, Unit 79 (hereafter "UAW"). The unit was created in 1998 pursuant to a letter of understanding to remove three non-supervisory positions from a UAW supervisory bargaining unit and place them in UAW Local 412, Unit 79, a new non-supervisory unit. The three-position unit includes a personal property examiner/real property appraiser, department head secretary/administrative assistant, and public information officer.

The public information officer position was created in 1994. Although it did not have any supervisory responsibilities, it was placed in the UAW supervisory unit where it remained until 1998. The public information officer was required to possess a bachelor's degree in communications, journalism or a related field and was responsible for coordinating, developing, and disseminating most communications activities to the general public and media.² Initially, the public information officer reported to the city manager, later to the city clerk, and finally to the library director. The

¹When the petition was filed, MAPE (Michigan Association of Professional Employees) had filed an RC petition to represent the AFSCME unit. MAPE's campaign was unsuccessful and it is no longer an interested party in this dispute.

²The Employer has also used independent contractors, an unrepresented part-time employee in the Parks and Recreation Department, and various library aides in AFSCME's bargaining unit to perform some communications functions.

public information officer's salary, which ranged from \$33,008 to \$43,000 annually, was funded by a grant to support recycling programs.

In September of 1998, while the public information officer was on a medical leave, the Employer created a communications department, hired a communications director at an annual salary of \$48,271, and entered into a letter of agreement with UAW Local 412, Unit 44, a supervisory bargaining unit, to place the communications director position in Unit 44. The communications director, under the general supervision of the library director, assumed responsibility for planning and coordinating public relations activities and supervising the public information officer. The communications director also assumed responsibility for the recycling program and for serving as the Employer's liaison with the cable commission.

In the meantime, the Employer drafted a new position description for the public information officer which reduced her responsibilities. The public information officer was now required to *assist* the communications director in planning, coordinating, and implementing a variety of public relations and information activities designed to create and maintain a favorable public image. According to the position description, the public information officer's modified duties included: disseminating information and responding to inquiries, as assigned by the communications director; developing and producing cable programs, printing flyers, brochures, newsletters, and other department communications, as assigned by the communications director; researching and writing news items, newspaper and magazine articles, bulletins, and radio and television announcements; assisting in developing and maintaining relationships with the news media and other community organizations; participating in planning and coordinating city-wide activities and special events; assisting department heads with public relations and communications related projects; helping to develop and execute the City's recycling program; and maintaining and assisting in developing a web site. The revised job description required the public information officer to have a bachelor's degree in communication, journalism or a related field.

In October of 1998, the public information officer resigned and her position remained vacant. The position, however, remained in the UAW bargaining unit.³ In an April 20, 1999 letter, the Employer advised AFSCME, MAPE, and the UAW Unit 79 that it had created and filled a new communications technician position in the communications department.⁴ The letter reads:

The City has created a new position in the Communications Department within the Library titled Communication Technician. The individual in this new position will be

³The public information officer position was included in the collective bargaining agreement entered into by the Employer and the UAW on January 31, 2000, for the period July 1, 1999, to June 30, 2002.

⁴When the communications technician position was created and filled, AFSCME's non-supervisory unit was being challenged by the MAPE. According to the Employer, to avoid creating an appearance of favoritism by placing the position in AFSCME's bargaining unit, it filed the instant unit clarification petition to allow us to determine the position's appropriate placement.

required to work 37.5 hours per week, with occasional overtime and will be paid in the range of \$16.00 to \$18.00 per hour.

Attached is a copy of a job description for the Communication Technician position.

* * * *

The City hopes to fill this position in the next few months.

The communications technician's duties and responsibilities are quite similar to those contained in the revised job description for the public information officer. The communications technician, under the general direction of the communications director, provides assistance in implementing a variety of communication activities designed to create and maintain a positive image of the City. The communications technician: 1) helps research, write and produce informational materials, including television/radio scripts, news releases and news and feature articles covering a full range of municipal activities; (2) assists in the page layout of photographs, artwork, and print materials including newsletters, brochures, flyers and any specialized publications and helps coordinate production of publications with outside vendors to completion; (3) aids in the production of municipal cable television programming by helping to create concepts for programs, writing television scripts, editing and shooting programs; (4) assists in the organization of special activities and events designed to enhance the City's public image; (5) responds to inquiries from the media, local organizations and citizens regarding City matters; and (6) helps coordinate press conferences and monitors media coverage of issues and events in the City. The communications technician is required to have a bachelor's degree in journalism, communications, public relations *or* at least 60 credit hours towards a bachelor's degree and equivalent work experience in a related field.

Conclusions of Law:

Although the Employer took a neutral stance in its petition for unit clarification, it now argues that AFSCME's non-supervisory unit is the appropriate placement for the communications technician position. It advances several reasons for its view that the position shares a community of interest with the AFSCME unit: (1) AFSCME's unit covers all permanent city employees and the communications technician's \$35,000 annual salary falls squarely in the middle of the \$27,027 to \$43,300 range for employees in its unit; (2) Employees (nine library aides) represented by AFSCME share day-to-day contact, similar working conditions, and share common supervision with the communications technician; (3) AFSCME represents a number of technical positions (electrical inspectors, senior accountants, systems specialists, etc.) which require specialized knowledge.

The Employer asserts that the communications technician position does not share a community of interest with the UAW unit because neither of the two unit positions work in the library, are supervised by the library director, or have any mass communications functions. Even if

we determine that the position does share a community of interest with both units, the Employer contends that we should defer to its good faith unit placement decision. The Employer observes that the communications technician's responsibilities and educational requirements are less than those which had been expected of the public information officer. Finally, citing *Hotel Olds v State Labor Mediation Board*, 333 Mich 382 (1952), the Employer contends that including the position in the two-person residual-type unit would be contrary to our objective of constituting the largest unit most compatible with the effectuation of PERA.

AFSCME asserts that the communications technician, like many job titles in its bargaining unit, performs more technical functions than did the public information officer. It claims that it is only appropriate that we defer to the Employer's choice of placing the position in its unit.

The UAW argues that the duties assigned to the communications technician have been performed by the public information officer, a position which has been included in its nonsupervisory unit since it was created in 1994. The UAW emphasizes that the communications technician position is literally identical to the truncated public information officer position which evolved following the 1998 reorganization and creation of the communications director position. Therefore, it contends that the Employer has not created a completely new position or changed the fundamental nature and essential duties and responsibilities that are required to be performed.

After carefully considering the record, including the transcript and briefs filed by the parties, we agree with the UAW's position concerning placement of the communications technician position. There is nothing to support the contention by the Employer and AFSCME that the communications technician is a completely new position. Although there may be limited aspects of the duties historically assigned to the public information officer position that are not currently the responsibility of the communications technician, all of the duties that have been assigned to the communications technician were previously performed by the public relations officer. The communications technician performs a wide-range of mass communications functions – print layout, filming, cable programming, editing, and typing – albeit in a support capacity under the direction of the communications director. A new position is not created by simply reducing or increasing the scope of responsibilities and educational requirements, and renaming an existing position. Compare *Henry Ford Community College*, 1996 MERC Lab Op 374, 379.

Moreover, we find no merit to the Employer's argument that the communications technician position does not share a community of interest with the UAW unit. This argument ignores the historical placement of the public information officer position in the UAW unit and the agreement between the Employer and the UAW to remove the public information officer position and two other positions from a supervisory unit and place them in a three-person residual unit. Even after the public information officer position description was revised in October of 1998, the position remained in the UAW bargaining unit and was included in the collective bargaining agreement which the Employer and the UAW entered into on January 31, 2000. We find no significant difference between the duties and responsibilities included in the revised public information officer's position description and those

required of the communications technician.

Absent the creation of a newly established position, or a recent, substantial change in the duties and responsibilities of an existing position, we will not upset the parties' existing bargaining relationship. *City of Kalamazoo*, 1983 MERC Lab Op 249. We have carefully considered all other arguments raised by the parties and conclude that they do not warrant a change in the result. Accordingly, we find that the communications technician position should be included in the non-supervisory bargaining unit represented by UAW, Local 412, Unit 79.

ORDER

The nonsupervisory bargaining unit represented by the UAW is hereby clarified to include the communications technician position.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chairman

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: _____